UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	
	)	
CERTAIN FROZEN OR CANNED	)	Investigation No.:
WARMWATER SHRIMP AND PRAWNS	)	731-TA-1063-1068
FROM BRAZIL, CHINA, ECUADOR,	)	(Preliminary)
INDIA, THAILAND & VIETNAM	)	

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Wednesday,
January 21, 2004

Room 101
U.S. International Trade
Commission
500 E Street, S.W.
Washington, D.C.

The preliminary conference commenced, pursuant to notice, at 9:36 a.m., before the United States International Trade Commission, ROBERT CARPENTER, Director of Investigations, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Staff:

ROBERT CARPENTER, Director of Investigations
JAMES McCLURE, Acting Supervisory Investigator
ELIZABETH HAINES, Investigator
MARC BERNSTEIN, Attorney/Advisor
JOHN BENEDETTO, Economist
CHAND MEHTA, Accountant
FRED FORSTALL, Industry Analyst

ADDITIONAL APPEARANCES:

IN SUPPORT OF THE IMPOSITION OF ANTIDUMPING DUTIES:

SCOTT ST. PIERRE
Commercial Shrimp Fisherman

SAL VERSAGGI
Owner
Versaggi Shrimp Company

CRAIG WALLIS
Commercial Shrimp Trawler Owner and Operator

JONATHAN D. APPELBAUM
President
Penguin Frozen Fish, Inc.

ANDREW BLANCHARD
President
Pearl Incorporated

DAVID COOK
Vice-President, Specialty Seafood Trade
Bumble Bee Seafoods

RICHARD GOLLOTT
Secretary/Treasurer
Golden Gulf Coast Packing Company

SUSAN B. HESTER
Economist
Dewey Ballantine

BRADFORD L. WARD, Of Counsel
Dewey Ballantine
Washington, D.C.

BRADFORD L. WARD, Of Counsel
Dewey Ballantine
Washington, D.C.

ADDITIONAL APPEARANCES:

IN OPPOSITION OF THE IMPOSITION OF ANTIDUMPING DUTIES:

WALLY STEVENS
Slade Gorton & Co.

GEORGE CHAMBERLIN
Global Aquaculture Alliance

BILL HERZIG
Darden Restaurants, Inc.

RUSS MENTZER
King & Prince Seafood Corporation

RAY JONES
Rich-SeaPak Corporation

RICH CATANZARO
H-E-B Grocery

JOHN BROCK
Pappas Restaurants

WARREN E. CONNELLY, Of Counsel
Akin, Gump, Strauss, Hauer, and Feld
Washington, D.C.

KEVIN McCLAIN
Chicken of the Sea

DANIEL L. PORTER, Of Counsel
Wilkie, Farr, and Gallagher
Washington, D.C.

K. JOSE CYRIAC
The Marine Products Export Development Authority

LIZBETH R. LEVINSON, Of Counsel
Garvey, Schubert, Barer
Washington, D.C.

KENNETH J. PIERCE, Of Counsel
Thai Frozen Food Association
Wilkie, Farr, and Gallagher
Washington, D.C.

ADDITIONAL APPEARANCES:

IN OPPOSITION OF THE IMPOSITION OF ANTIDUMPING DUTIES:

MATTHEW R. NICELY, Of Counsel
Vietnam Shrimp Committee of the Vietnam

Association of Seafood Exporters and Producers
Wilkie, Farr, and Gallagher
Washington, D.C.

ALEXANDER W. SIERCK, Of Counsel
Association of Brazilian Shrimp Producers
Cameron & Hornbostel
Washington, D.C.

THOMAS V. VAKERICS, OF COUNSEL
Coalition of Shrimp Importers/Producers of South China
Perkins Coie LLP
Washington, D.C.

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P R O C E E D I N G S

(9:30 a.m.)

MR. CARPENTER: Good morning and welcome to the United States International Trade Commission's conference in connection with the preliminary phase of antidumping investigation Nos. 731-TA-1063 through 1068 concerning imports of certain frozen or canned warmwater shrimp and prawns from Brazil, China, Ecuador, India, Thailand, and Vietnam.

My name is Robert Carpenter. I am the Commission's Director of Investigations and I will preside at this conference.

Among those present from the Commission staff are, from my far right: Jim McClure, the acting supervisory investigator; Elizabeth Haines, the investigator; on my left, Marc Bernstein, the attorney/advisor; John Benedetto, the economist; Chand Mehta, the accountant; and Fred Forstall, the industry analyst.

The purpose of this conference is to allow you to present your views with respect to the subject matter of the investigation in order to assist the Commission in determining whether there is a reasonable indication that a U.S. industry is materially injured or threatened with material injury by reason of imports of the subject merchandise.

Just a few ground rules before we get started.

We normally would do an opening statement, but as I understand the parties are not prepared to that in this case, so what we do is proceed with the direct testimony of the Petitioners.

Each side will be given one hour for their direct testimony. Staff will ask questions of each panel after their presentations, but no questions from opposing parties will be permitted.

At the conclusion of the statements from both sides, each side will be given 10 minutes to rebut opposing statements and make concluding remarks.

Speakers will not be sworn in. However, you are reminded of the applicability of 18 USC 1001 to false or misleading statements, and to the fact that the record of this proceeding may be subject to court review if there is an appeal.

Additionally, speakers are reminded not to refer in their remarks to business proprietary information and to speak directly into the microphones.

Finally, we ask that you state your name and affiliation for the record before you beginning your presentation.

Are there any questions?

(No response.)

MR. CARPENTER: If not, Mr. Ward or Mr. Dempsey, please proceed with your direct testimony.

MR. WARD: Good morning. My name is Bradford Ward of Dewey Ballantine, LLP, counsel to petitioner, the Ad Hoc Shrimp Trade Action Committee.

Petitioner represents a cross section of the domestic industry producing frozen and canned warmwater shrimp. The petitioner is made up of shrimpers and processors operating in states from the Carolinas to Texas. The industry, much more than most, is comprised of independent-minded people, people who would prefer to be on their boats at sea or running their businesses than before you today.

But the surge in dumped imports in recent years has energized members of this industry and their communities like few other issues. We believe that the industry's response to the Commission has been exceptionally large as a result.

The responses are replete with compelling stories of personal hardship and economic pain. You will hear some of these stories firsthand here today. What are not a part of the responses, however, are the stories of harm inflicted on school districts whose tax basis has shriveled, the harm inflicted on providers of ice, fuel, maintenance service, and other supplies whose customers base has shrunk. The harm to the balance sheets of community banks that made boat loans and now own boats worth far less than the loan amount, or hold nonperforming mortgage notes.

The witnesses in front of you today represent the essence of an American ideal, deeply-rooted people and companies whose persistence and hard work support their families and communities.

This industry asks that the Commission permit them to continue to do so by recognizing the industry inflicted on them by dumped shrimp imports. The industry asks that the Commission take the first step in permitting them to receive a fair price for their labor, to continue to earn a living, to continue a way of life. The law and the facts of this case permit no other conclusion.

I will now turn the presentation over to my colleague, Kevin Dempsey.

MR. DEMPSEY: Good morning, I am Kevin Dempsey of Dewey Ballantine. I will now present an overview of the petitioner's case, referring to a series of exhibit that I believe have been handed out to the staff, and we have copies for others in the hearing room as well.

Turning to slide 1 on our exhibits, you can see that the reported volume of imports of frozen and canned warmwater shrimp from the six subject countries has grown dramatically over the period of investigation, from just under 466 million pounds in 2000 to almost 650 million pounds in 2002, and increase of 39 percent based on actual import weights. In the interim period, imports increased yet further, growing by 22 percent in just one year.

In slide 2, when imports are converted to a headless shell-on equivalent weight the growth in subject import volume is equally dramatic and significant, growing by more than 40 percent over the three-year period.

Slide 3 demonstrates that subject imports have also gained significant market share, growing from 59 percent in 2000 to almost 72 percent in the most recent period, again when measured the basis of a headless shell-on equivalent weight.

In slide 4 we see that prices for subject imports have steadily declined as import volumes have grown, with average unit values using actual weights dropping from over $5 a pound in 2000, to $3.50 a pound in interim 2003, a drop of over 31 percent.

This is, of course, an aggregate of a range of count sizes and processed forms of frozen and canned shrimp. However, if you look at the narrower product subcategories, such as shell-on, peeled, cooked and peeled, and canned, you can see similar declines in prices over the period of investigation for each of these products.

Slide 5 shows the negative impact of the declining import prices on domestic shrimp prices. Shrimp is a commodity product sold primarily on the basis of price at any given count size. As a result, declining subject import prices have suppressed and depressed both ex-vessel and frozen wholesale prices for warmwater shrimp in the U.S. market, thus causing injury to both U.S. commercial shrimp fishermen and domestic shrimp processors.

Slide 6 shows that the continuously declining subject import prices are depressing domestic ex-vessel shrimp prices, reducing the average price obtained by commercial shrimp fishermen by over 36 percent since 2000 according to petitioner's survey.

Indeed, the U.S. Department of Agriculture has recently determined that increased imports of farm shrimp have contributed importantly to a decline of more than 20 percent in the landed prices of shrimp in Alabama, Georgia, South Carolina, and Texas, and authorized trade adjustment assistance to shrimp fishermen in these states.

In Slide 7, we see that as a result of these ever-declining prices the National Marine Fishery Service reports that the total value of the domestic warmwater catch fell from $660 million in 2000, to $435 million in 2002, a drop of 34 percent.

Less revenue means less money for boat owners and their crews, making it increasingly hard for many shrimp fishermen and their families to make ends meet. In fact, we estimate that a large percentage of the crew members on shrimp boats at the current price levels, their crew share puts them well below the poverty line.

Slide 8 shows how the declining revenues caused by import-driven price depression have resulted in a precipitous drop in the financial condition of shrimp fishermen who have now been losing money for almost three years straight.

In order just to survive in the short term some shrimp fishermen are cutting back on insurance, maintenance, and repairs in a desperate effort to cut costs. While this may have reduced their loses in the short term, it is hardly a long term survival strategy.

In fact, as Professor Maybee of Texas A&M has noted, "Operating expenses such as crew shares, fuel, repairs and gear comprise virtually the expenses that a trawler incurs; thus there are few expenses which are unnecessary and can therefore be eliminated or deferred and still operate the vessel."

Turning to slide 9, we see that these horrible economic conditions are driving many fishermen to leave the industry altogether as is demonstrated by the dramatic decline in the number of commercial shrimp licenses from 2000 to 2002 for just six Gulf and south Atlantic states.

And slide 10 shows that shrimpers are making fewer trips to sea to harvest warmwater shrimp in the Gulf and south Atlantic. Indeed, you will hear today from several fishermen who have had to tie up their boats at the dock because shrimp prices are now too low to cover the cost of making a trip.

Slide 11 demonstrates that dumped and frozen and canned warmwater shrimp are causing similar damage to domestic shrimp processors. Prices obtained by processors according to petitioner's survey have declined from $4.11 a pound in 2000, to only $2.88 a pound in the first three quarters of 2003, a drop of 30 percent.

In slide 12, we see that this dramatic drop in prices has been coupled with a steady decline in sales volume, resulting in an alarming fall in net sales values for domestic fish processors of an estimated 42 percent.

Turning to slide 13, we see that as a result of declining sales volumes capacity utilization at domestic processing operations has declined from 68 percent in 2000, to under 59 percent in the most recent period.

And slide 14 shows that the falling sales and revenues are also forcing domestic ship processors to dramatically curtail capital expenditures. In sum, all of the available data demonstrates that the impact of ever-declining prices caused by subject imports is devastating domestic shrimpers and processors alike.

Slide 15, in analyzing the material injury caused to domestic producers of frozen and canned warmwater shrimp the Commission should define the domestic like product to be a single product co-extensive with the scope of these investigations. All the forms of frozen and canned warmwater shrimp exhibit similar physical characteristics, and virtually all warmwater shrimp is used for human consumption.

While there are minor differences between different sizes, species, and processed forms of warmwater shrimp, there is no clear dividing line along the continuum of products covered by these investigations.

The various forms of warmwater shrimp are generally sold through common distribution channels, the seafood distributors, restaurants, food service providers, and retail establishments. All the various product forms are recognized in the industry and among consumers as types of processed warmwater shrimp.

Turning to slide 16 and the issue of common production processes, warmwater shrimp are generally processed into headless shell-on, peeled and cooked products in the same facilities using the same workers. Canned shrimp goes through the same washing, grading, peeling and cooking processes as frozen shrimp, with the only difference being in the final packaging process.

Respondents have argued that the Commerce Department, that the domestic like product should be expanded to included breaded shrimp. This argument has no merit however given that breaded shrimp is substantially transformed through a separate and distinct production process into a food product that is only 50 percent shrimp and sometimes even less.

The breading process also changes the flavor and texture of the product, affecting consumer perceptions and limiting end uses in ways that fundamentally distinguish breaded products from frozen and canned shrimp.

Slide 17, finally, on the issue of price, you can see that prices for frozen warmwater shrimp while varying in some degree on the basis of species, and more significantly, on the basis of count size are nevertheless highly correlated.

Similarly, on slide 18 one can see that the prices for frozen warmwater shrimp in shell-on and peeled forms also exhibit a very high degree of price correlation.

In sum, there are no clear dividing lines along the continuum of product species, count sizes, and processed forms that make up the range of products competing in the market as frozen and canned warmwater shrimp.

Slide 19, the Commission should exercise its discretion to define the domestic industry in these investigations as consisting of both shrimp processors and commercial shrimp fishermen as both the statutory criteria are clearly met.

Raw warmwater shrimp is processed into frozen and canned warmwater shrimp through a single continuous line of production, with over 90 percent of domestically landed or farm shrimp being processed into frozen and canned shrimp, and the raw shrimp being the only raw material used in producing the frozen and canned product.

There is also a coincidence of economic interest between commercial shrimp fishermen and processors given the significant relationship between the cost of the raw product and the value of the processed product.

As you will hear from several of our witnesses today, shrimp fishermen and processors are inextricably linked together in this industry. Indeed, as slide 20 shows, ex-vessel and frozen wholesale prices for warmwater shrimp in the U.S. market exhibit a very high degree of price correlation, demonstrating clearly the commonality of interests of shrimp fishermen and processors.

Turning to slide 21 and the issue of cumulation, the statutory tests for mandatory cumulation are clearly met in these investigations. The frozen and canned warmwater shrimp imports from the subject countries all compete with each other and with the domestic like product. The various species of shrimp imported into the United States are highly fungible with each and with domestic shrimp species, and subject imports compete with each and with domestic shrimp in the same geographical markets and through the same channels of distribution.

Finally, imports from the six subject countries have been simultaneously present in this market throughout the POI.

Slide 22, the subject imports also threaten significant additional injury to domestic shrimp fishermen and processors. The volume of shrimp production in the subject countries continues to grow dramatically, fueled by extensive government promotion of shrimp aquaculture in these countries, and a significant rate of increase in the volume and market share and ever-lower prices of subject imports signal that these imports will inflict even more damage on the domestic industry in the very near future.

Indeed, as noted in slide 23, the United States is the largest and most preferred market for warmwater shrimp grown for export in the subject countries. This is especially true today as the other two major markets for shrimp exports have become less much attractive.

The EU has imposed high tariffs on key exporting developing countries, and has taken a much more aggressive stance that the U.S. in seizing and destroying imported shrimp contaminated with various banned antibiotics. Consume of shrimp in Japan, meanwhile, has stagnated due to the economic slow down in that country.

As a result, the ever-growing production of warmwater shrimp from the subject countries has nowhere to go but here at ever-lower prices.

Finally, on slide 24 we see that even a leading spokesman for the respondents recognizes that the threat to the domestic industry caused by dumped imports is great. Wally Stevens thinks we are going to get killed.

This industry is injured but we are not dead yet, and given fair pricing this industry can compete and will compete, but we need the Commission's help to obtain relief from the ravages of injurious dumping.

Thank you for your attention.

MR. CARPENTER: Thank you, Mr. Dempsey.

For the record, we will accept your exhibit as Petitioner's Exhibit 1, and that will be made part of the transcript.

MR. WARD: Next we would like to go to our witnesses from the industry. I would like to present Mr. Sal Versaggi as our first witness.

MR. VERSAGGI: Good morning. My name is Sal Versaggi, and I am the President of Versaggi Shrimp Corp. located in Tampa, Florida.

With my brothers, I own six shrimp boats and an off-loading facility within the Port of Tampa. My family has been in the business since 1912, when my grandfather began harvesting shrimp in Fernadina, Florida.

Men have been harvesting shrimp for hundreds of years, but shrimping evolved into the modern commercial industry in Fernadina early in the twentieth century, and it's considered to be the birth place of this noble industry.

I began working in the business as a young boy helping to do menial tasks around the packing house such as making boxes, icing shrimp, things of this nature. These are mostly jobs to keep me busy when I was out of school. I officially entered the business full time in 1963, when I graduated college.

Our shrimp are headed, washed, and separated into sizes at sea, and then placed into a mesh bag like an onion bag, and quick frozen in a brine solution on the vessel. If it is more advantageous to freeze the shrimp with the head on, then they will do that as well.

Therefore, you can have a vessel unload shrimp with the head on, and with the head off during the same trip.

The shrimp are then weighed and counted for size, placed on pallets, and shipped to a processor. The processor then thaws and regrades the shrimp to meet the demand of his customers and refreezes the product.

In order to get the shrimp to shore and the crew on a shrimp boat work long hours, mostly at night, on the west coast of Florida they are working to catch shrimp, primarily pinks, and in normal times the crews are working very hard 12 months of the year.

In the past couple of years, however, we have not been able to work as much. In 2003, for the first time our boats were tied up for a 45-day period because price of shrimp was too low to cover fuel and other costs. While our boats were tied up, we lost a captain who left to work on a tugboat because he said he couldn't survive without a paycheck for 45 days.

The primary reason this stoppage occurred is the fact that the market is flooded with very low priced imported frozen shrimp, and those imports have pushes prices to a level so low that it becomes impossible to continue to operate and survive.

The boat owners can't cover their costs and the crew shares are too small to support their families. I would venture to say that 90 percent of my crews are below the poverty level right now in terms of wages.

In this line of work the crews' wages depend on the price we get for our shrimp and the amount caught. It is strictly commission based and they are paid a percentage of the value of the catch. For example, as a boat owner, I spend about $12,000 to fully supply a boat for a 30-day trip. So when the boat comes in I split 70 percent for the boat and 30 percent for the crew. The catch is only worth as much as the market will pay for the shrimp.

Prices have been falling now for so long that everybody's take has decreased. I have been forced to put off trips, reduce maintenance expenses, and cut my insurance coverage in half. The crew has also suffered because the value of their take keeps going down.

What adds to these deteriorating business conditions is that these imports never taper off. They only keep increasing. It used to be that our foreign shrimp competition was basically wild caught shrimp from other countries like Ecuador and Mexico, but then their volume varied a lot from year to year, so the industry could breathe if it had a bad year.

With the advent of shrimp aquaculture in the early eighties, imports had a cyclical impact on the domestic industry as did the wild harvest imports. The great equalizer in those days was disease and pestulants on the farms.

Now, with the illegal use of the veterinary antibiotics by many of these producers, huge volumes of foreign farm raised shrimp coming every month of the year, and they come at prices that may make it impossible to stay in business for much longer.

The worst part is that the processors really like the product we have. After processing our large Florida pink shrimp, they sell it to more sophisticated supermarket chains such as Whole Foods, because it is a natural and healthy product.

But this supply is threatened because the price is not there for us any longer. Having been in this industry all my life, I know the shrimp business has always been a fluid and dynamic industry. I am accustomed to people moving in and out, but for some time now I haven't seen anyone coming in. I have to discourage anyone from going into this business because I see no future in it unless the decline in prices ends.

To me, it is clear that something must be done to stop prices from going down further, and to bring them back to fair levels, or else the whole local economy is going to take a hit. The Tampa shrimp industry has already suffered the economic effects of this deterioration in pricing. Fishing communities are hit the hardest because the whole economy of the community revolves around the vessels that bring in the shrimp. If this industry fails, we will see virtual ghost towns around some coastal communities of the southeast, a society rich in tradition and culture will quietly fade away.

The sad thing is that shrimp harvesters have always been and are still on the technological cutting edge. We are very efficient because we use the most advanced shrimp boats in the world. Shrimpers from other countries still get their boat built in this country. We not only have the best equipment, but our techniques are imitated and emulated around the world.

The entire future of this industry depends on what happens this year. Unfortunately, there is no hope unless something is done about the imports. As shrimpers, we can only produce what nature provides and we know we can't supply the entire domestic market. We don't want to stop all imports. All we want is a fair price for our shrimp, but I believe the shrimp industry can compete with the imports provided we have a level playing field.

Thank you for your time and consideration.

MR. WARD: i would like to introduce our next witness, Mr. Scott St. Pierre.

MR. ST. PIERRE: Good morning, my name is Scott St. Pierre. I am a shrimper from Golden Meadow, Louisiana. I married into this business 20 years ago and since then I've been making a hard working, honest living catching shrimp off the coast of Louisiana and Texas. I own and captain a 72-foot long iron trawler ice boat.

During the year, I catch both white shrimp and brown off the coast of Louisiana near rivers and estuaries. I also go out to sea up to 40 miles out to catch brown shrimp. During July and August, I take my boat to Texas, to the Texas coast where I harvest brown shrimp. After that period, I come back to

Louisiana to harvest large white shrimp. During the winter, I also catch small white and sea bobs, a very small shrimp suitable for, among other things, gumbos and stews.

I normally take my trawler out to sea for week-long trips. I also make longer trips of up to 17 days when the shrimp are larger in size. While at sea we sort the shrimp into two different grades, large and small. Large shrimp are deheaded as they come on the deck, and the smaller ones are always iced up as head-on.

When I return from sea, I sell my catch to a dock house. They historically have received 15 to 20 cents a pound from processors to unload the shrimp from the boat, and I have also seen their commissions drop over the past three years.

The dock separates the shrimp from ice in a tank of water, and then transfer it to a sifter for grading, and then weighed, and iced into large containers for storage which is then trucked and sold to processors for processing.

As a boat owner and captain, I keep 60 percent of what the dock gives me to pay for fuel, maintenance, gear, and repairs. The crew gets 40 percent, and then share what's left after paying for ice and groceries.

In the past I used to hire two men. Now with the prices this bad I can only afford to hire one. This year was awful. At times I could only get $1.85 a pound for 16/20 count shrimp, which is the best shrimp I can catch, and is but only a small part of my yearly harvest. These large shrimp are rare. Prices like these are impossible to bear.

It wasn't always like that. In the year 2000, prices were good. We worked very hard because we knew that we had to save for a rainy day. That year I spent money in the economy. I bought spare parts, ropes, extra nets, paid for some boat maintenance.

For the past two years prices have been so low that the money I am making is to pay for fuel and very little is left over. As a result, I have been forced to cut all costs. I reduced my insurance costs by upping my deductible and now I am only insured in case of a total loss, and I am also contemplating dropping my insurance altogether and neglecting badly needed maintenance just so I can pay my mortgage.

You just can't make a living and feed your family with these prices. What is worse is that I don't have a choice. I have to go out, keep fishing.

In the past I have stopped fishing in the winter months to do yearly maintenance, which is a must to maintain my vessel in a safe working condition. Now I am trawling much later in the year than before just to keep things going.

The government must do something about this. We know more than anybody else that we cannot supply all the shrimp that the market wants, but the amount of shrimp is not the central issue here. Prices paid for shrimp are the problem. At the docks they say the reason the price is down is because there is too many low-priced imported shrimp.

The purpose of this case is to stop the dumpers from dumping and allow prices to where people can make a decent living.

I am proud of supporting my family with my honest work, but it demoralizing to go out, work hard, and not be able to even cover all the costs. I am proud of being shrimper. Shrimping gives you a sense of accomplishment. It makes you feel alive because you are independent, determined, and proud.

People are eating imported shrimp, but they are still paying the same high prices. Supermarkets and restaurants are taking all the profits. To me, this free trade is not benefitting the consumers, and it is destroying American who work hard day in and day out. I myself buy foreign products. But if we can't make a living, we won't be able to buy anything.

In southern Louisiana, peoples' livelihood depend on the survival of the local shrimp industry. All we want is a level playing field.

I live in a small community of about 4,000. There the number of shrimp boats have dwindled in recent years, and there only about 100 boats left. Nearby Vietnamese community has a couple hundred boats tied up, no longer going out to sea. People are losing boats because they cannot pay their mortgages. They cannot pay their mortgages because during the past two years prices have kept declining and people can't recover from a bad year under these price conditions.

Everybody is looking for other jobs which leaves fewer experienced crew members to hire, and the few that aren't won't be able to hang on much longer. I, for one, know that I cannot go out there, work harder, catch more shrimp to compensate for lower prices. I am at the limit already and I'm not alone

We need some help to bring these prices back to sustainable levels and we need it quick. Our families, entire communities, and parishes are suffering. In Louisiana alone, the shrimp industry had a total economic impact of $2 billion a year. In these tough economic times the State of Louisiana cannot afford to lose such a valuable asset to its economy.

On a final note, as recent as last week I sold small shrimp for an all-time low of 30 cents a pound.

Thank you.

MR. WARD: I would like to introduce our next witness, Mr. Craig Wallis.

MR. WALLIS: Good morning. My name is Craig Wallis, and I began working in this business as a teenager as a crew member on one of my dad's boats. From that time on I always wanted to be in the shrimping business.

And 25 years ago, in 1979, my brother and I bought a facility in Pulaxis, Texas, a small town between Galveston and Corpus. We started off our business with four boats. We have slowly and conservatively built our company over the years. Today we have an 80-ton ice facility and 10 boats. We manage an additional five boats and do maintenance on the trawlers we own and manage as well as other boats in the area. We sell fuel and ice to the boats, and then unload the shrimp boats when they come in from sea. We service a total of 24 boat, including the ones we own.

The crews on the shrimp boats during the high season average around 250 days a year. In the past year we have worked as many as 290 days. This past year we only worked less than 200 days because of low shrimp prices.

The price if shrimp has fallen so low that we cannot cover our expenses. It costs around $20,000 to prepare a boat for a 45 to 50-day trip.

The price if shrimp is less than $4.00 a pound. We can't cover cost and the crew shares are too small to support an individual, much less a family. Unlike most lines of work, the crew wages depend on the price of shrimp. It works like this.

When the trawler returns from sea, the shrimp are weighed and sorted by size, and the price is determined for the catch. The only get 65 percent of the share to pay all expenses on the boat, and the crews gets 35 percent. The captain only gets 55 percent of that, and he shares the other percentage with his other two crew members.

The prices have gotten so low that I tied up my boats in December and will probably not go out until May.

What bothers me most about the current state of the industry is what I see happening to the people who depend on shrimping for a living. I am really close to the people who work for me. Some of them have been with me for over 20 years. I have done everything I can to help my crew survive but I have run out of corners to cut.

A couple of years ago we cut the dock's handling fee from 30 cents to 22 cents a pound to try to get more money for the crew. Crew wages are based on the initial price after their catch is weighed at the dock. After we get a final price from the processor for the catch, we give the crew any extra money that there is after it is packed. However, with the price of shrimp so low the bonus has all but disappeared.

We used to make a couple of trips in January and February to keep our crews going, but with the price of shrimp we are unable to do that this year.

I'll try to hire some of my crew at minimum wage to help on the maintenance of the boats, but we don't think we will be able to do that this year. They will probably have to go elsewhere for work. Many boat owners are cutting back on maintenance, so I am not even sure I can keep three men that I keep on full time for the winter.

Since I will not be sending my boats out until May, I tried to cut my expenses further by cancelling the insurance in December on the six boat that I do have paid for. I will use this money for maintenance and upkeep, but I will also be delaying maintenance for some of my boats because I just don't have the money to do it this year.

I hope to reinstate the insurance when I put the boats back to work, and it is not just the boats that are desperately trying to survive. For example, our local processor is also closing his doors until the boats start working again.

I have worked for 25 years to build this business, and everything I have is on the line. My retirement is floating in the water. Maybe you can understand it better -- when we bought our boats and invested in our facility we thought we were investing for our future and our children's future. But instead it seems like we have invested in junk bonds.

However, unlike the stock market, 2003 was not a good year for us. Twelve boats are tied up at our dock, all have been repossessed. No one wants to buy these boats or my business when they can see no way to make a living in the future.

Our 24-year-old son wanted to join the business after graduation from college. I told him I couldn't see a future and he needed to get a job somewhere else. Our is a way of life for him. He hasn't given up home, and works with me doing maintenance whenever he has time off.

It wasn't always this way. In 2000, when we averaged $6 a pound for the large shrimp, we were able to pay crew a living wage and invest in our business. At today's price at $3.80 a pound we can neither. The only reason we have survived this long is that we have been very conservative over the years and reluctant to take a very bid dip.

Half of our boats are paid for as well as the dock facility. Shrimping is the only industry in my community, so I come here today on behalf and on behalf of others in my community who depend on shrimping for a living either directly or indirectly. We need fair trade and fair prices for the shrimp.

Many have already lost their boats and their livelihoods. I am still in business but I know we can't make it through another year like 2003. Without relief from unfair trade, we need action, and we need your help now. Thank you.

MR. WARD: I would like to introduce our next witness, Mr. Richard Gollott.

MR. GOLLOTT: Good morning. I am Richard Gollott, Secretary and Treasurer and part owner of Golden Golf Coast Packing Company, a processor of shrimp located in Biloxi, Mississippi.

My family has been in the seafood processing business for three generations, and I have been personally involved in the business since I was 13 years old. I began in the shrimp industry in 1984, after working in oyster processing. I started in the shrimp business after acquiring a dock. We unloaded the shrimp boat that tied up at the dock, and sold the shrimp to a processor in Tampa. In 1986, we built a processing facility in Biloxi, and begin to process the shrimp ourselves.

I would like to begin by telling you a little about our business and then explain why I came here this morning.

There are two parts to the shrimp processing business that we run in Biloxi. The first part is a processing facility itself. Golden Gulf grades, sorts, cleans, peels, and freezes shrimp that comes into our facility. The second part of the business is a dock that we operate through a separate company.

There are about 40 small boats and 55 large freezer boats that supply our dock with shrimp. The dock supply shrimp boats with fuel and ice, and when the boats return from sea our employees unload the shrimp, which is then transported to our processing facility.

We have a very close relationship with the boat, and if they need help, we are there for them. We give them financial support, anything they need to keep their boats running.

A shrimp that is sold by us is first caught by one of the boats. Depending on the market size of the crew of the boat may or may not dehead the shrimp at sea. The shrimp that comes to the dock with its head on, the shrimp are unloaded, weighed, counted, and then delivered to the processing facility.

At our processing facility our Lathrum peeling machines peel the shrimp. The Lathrum machines peal the head and the shell of the shrimp and then once peeled the shrimp is inspected for quality, graded for size, weighed, placed in five-pound boxes. From there the boxes are put into our blast freezers. The shrimp is now frozen and transferred to a different part of our facility and packed in 50-pound master cartons to be sold in the marketplace.

For shrimp that comes to our facility

headless, we grade them for size and remove broken or discolored shrimp. Once inspected, they are placed in the blast freezers in headless shell-on form in five-pound boxes. Distributors sell most of the shrimp that we process. We have five or six brokers we use to sell our product. And our shrimp generally end up at restaurants or with other customers in the food service industry.

That is what we do at Golden Gulf Coast Packing Company, and that is what I would like to continue doing. However, I am not sure of whether that will be an option. Prices for shrimp have fallen to levels that until recently I did not think possible, and they are still declining.

In 2002, prices fell so far so fast that we could not anticipate the collapse and lost money, and there is no mystery as to why prices fell. Imports flooded the market at prices that just kept falling and pulling everything down with it.

Processing imports is just not a viable option for me. While we occasionally purchase some imported shrimp, it is an extremely small amount of our business. Approximately 60 percent of our shrimp we process off-loaded from boats on our dock. Another 40 percent we purchase from docks in Louisiana and

Texas.

Why should anyone pay for imported shrimp peeled on our lands when they can buy shrimp that has been peeled overseas at dumped prices? If we go down that road, it will not take long for our customers to figure out they can just cut us out of the processing altogether.

Golden Gulf's financial performance in 2002 forced us to make difficult decisions in 2003. I have promised the fishermen who sell us that we will meet the price of any other processor who they could sell their catch to, but as prices has fallen our margins have all but disappeared, and we have been forced to pay lower prices for the shrimp we process. At some point in the near future there will not be enough money to justify boats going out, and there will be no shrimp for our facility to process.

I have already seen five larger freezer boats that had worked in the Biloxi area exit the fishery, and the rest are facing incredible pressures. As the value of their catch declines, the crew of a boat makes less and less money, and the captains cannot afford their insurance or their loan payments.

I have seen a lot of inflated numbers thrown around regarding how many jobs are allowed in imported shrimp. I would like you to know the boats that sell to Golden Gulf represent the livelihoods of around 100 families, and the workers at Golden Gulf another 50 families.

I would also like you to know that in Mississippi alone the shrimp fishery produces about $612 million in economic output annually, accounting for approximately 10,000 jobs and constitutes $26 million a year in taxes. All of this depends on domestic shrimp.

Further demise of the shrimp processing industry in Mississippi would be significant in a state already hit hard by losses of a substantial portion of its manufacturing base. One hundred and twenty manufacturing plants throughout the state has closed, about 50 to 60 jobs have been lost. In a small state like Mississippi and the city of Biloxi, where the seafood industry actually built the city, it a way of life for a lot of families.

I also want you to know how important this business is to my family. My grandfather made his living selling seafood, as did my father. Currently my son, three brothers and three sisters are in the business. If any of the other eight processors in Biloxi were here today, they could tell you the same story.

I believe the case before you is very clear. Dumped imports are injuring the State of Mississippi and the entire domestic industry involved in processing frozen and canned warmwater shrimp. We Really need your help. Thank you.

MR. WARD: I would like to introduce our next witness, Mr. Andrew Blanchard.

MR. BLANCHARD: Good morning. I'm Andrew Blanchard, President of Pearl Incorporated. Pearl owns and operates two shrimp processing facilities, Triple-T Enterprise and Indian Ridge Shrimp Company. Both of the plants are located on the same bayou in Shovan, Louisiana.

I started working for a shrimp plant when I was 17, September 1974. I have worked as a dockhand for the plant. I have worked myself up the chain to become a plant manager in 1981. Within two years the plant was sold to ConAgra and I worked for ConAgra for 11 years.

In 1995, ConAgra wanted to get out of the business of processing shrimp in Louisiana, and they offered me the chance to buy the plant. I was able to pull together the financing, and that year Triple-T Enterprises was born.

In 2000, I purchased a second processing plant, Indian Ridge Shrimp Company. I have put a lot of time into the business. Two-thirds of our life has been spent processing shrimp. It has not been easy, and it's not getting any easier.

February of 2003, we were forced to file for Chapter 11 bankruptcy relief for Triple-T Enterprises because imports have killed this market. I am not saying that we should not have imports. Domestic production cannot fill all the country's demands for processed shrimp, but the imports that are coming are not just filling the demand that domestic production cannot meet, imports are coming in at such low prices that they are destroying the market and driving domestic producers out of business.

Because I sell a domestic product, I have got to deal with the imports in the marketplace. Prices keep falling and my inventory is building because I cannot sell my shrimp.

For my business, our season opens in May. We try to get at our lowest levels of inventory going into the start of the season. And when we use the shrimping season as an opportunity to build our inventory back up, this has not been how our inventory has worked over the last three years.

Our inventory has remained large at the beginning of each season and I have not been able to sell it down in the current market condition. With my inventory larger than what I should have on hand, I have to account for it in the shrimp that we are buying off the vessels.

We unload shrimp from the shrimp boats directly at our Indian Ridge plant. We've normally got about 60 boats unloading at our docks. Right now the prices that we have to pay the shrimpers that come to our dock the guys are living hand to mouth. They have to catch 30 percent more shrimp just to earn what they did last year.

But this is not as if we are trying to squeeze our boats out of business. Processors can only pay what we are getting in the market. With prices declining substantially and consistently as they have over the last few years, I have to be able to anticipate how much further shrimp prices are going to decline when I am purchasing shrimp off the boat.

The pressure that imports put on the price in the market directly affects the shrimper, and that sets the price that we can pay for what we catch.

Shrimper and shrimp processors are joined at the hip. One cannot survive without the other. If the boats cannot go out, we do not have supply. If the processors are not operating, the boats have no one to sell their shrimp to.

Right now I am taking a hit along with the boats. We used to process around nine million tons of shrimp between two plants. Now we do less than half of that, only about four million pounds. Triple-T used to employ 200 people in our facility, now between both plants we employ only 100.

If we cannot continue our operations, where do the boats that we have been buying from go?

Finally, I would like you to know that the shrimp processing business is very important to my bayou. We operate one of a few manufacturing plants in the area and provide good jobs for the people in the community. There are no other jobs in my bayou. So the middle man and corporations who are making all the money off these dumped imports can talk about how any import relief may force them to pay a few cents more for the shrimp they buy, but I have a hard time thinking about the communities these dumped imports are destroying.

Thank you.

MR. WARD: I would like to introduce our nest witness, Mr. David Cook.

MR. COOK: Good morning. My name is David Cook, and I'm the Vice-President for Specialty Seafood Trade, Bumble Bee Seafoods, a producer of canned warmwater shrimp. I have been in the seafood marketing business for over 32 years, starting my career in Louisiana, the original company that packed and distributed the New Orleans brand of canned shrimp.

Prior to being with Bumble Bee, I was one of the owners of Vaudian Seafood Company, which was sold to Bumble Bee in 1997.

My experience in the seafood business has been focused on the marketing of canned warmwater shrimp. Our brands of canned shrimp are Arleans and Bumble Bee, Arleans being one of the oldest brands of shrimp in America.

All of Bumble Bee's canned shrimp is produced at our processing facility in Violet, Louisiana, located just down the Mississippi River from New Orleans. We are the last remaining canner of warmwater shrimp in the United States. In fact, warmwater shrimp exclusively, we do not do any coldwater shrimp.

The shrimp we pack is all caught domestically. In the past we have bought small amounts of imported canned shrimp for resale in the United States, but purchases of imports have been reduced or eliminated over the past years because of quality concerns.

The state agencies, and later FDA had determined that shrimp from Thailand, China, Vietnam are possibly contaminated with some banned antibiotics, particularly chlorine phenocoll. We did not want to take chances with this type of product and felt that proper controls would be difficult in order to comply with the established regulations.

Today, we buy all our shrimp from the docks and from fisherman in Louisiana, Alabama, Mississippi and Texas. The shrimp we buy is loaded in trucks and delivered to our facility, and processed the same day it is received.

Once the shrimp enter our plant, we weight it, count it, and then load it into one of the 12 peeling machines we have on site. Once the shrimp goes through the peelers, we clean the meat, send any to the deveining machine or straight to the blanching machine.

Once the product is blanched or cooked, it is graded by size and then canned accordingly. Our product is then sold to retailers as well as distributed through wholesalers.

Up to the point where the shrimp is canned or processed and the process employed by someone producing frozen cooked and peeled shrimp is exactly the same. The only difference is the final package. While the frozen producer will freeze it, bag it or box it, we simply put the shrimp in a can.

With the exception of those employees dedicated to the actual canning of the shrimp, the employees that we have on the production line using the same skill set as those that are in the frozen shrimp facility.

The close relationship between production of frozen and canned shrimp can also be seen among our overseas competitors. The leading foreign producers of canned shrimp also produce frozen shrimp, and can easily switch production back and forth between frozen and canned, depending upon the market demand.

Indeed, once our product leaves the facility, it competes not only with imported canned shrimp, but also with imported and domestic frozen shrimp in supermarkets and other resale establishments.

Consumers can easily substitute frozen cooked and peeled shrimp for our product in a variety of uses such a shrimp cocktails, dips, salads, gumbos, casseroles, as well as many other ways to prepare America's favorite seafood. And as you know, the consumer will certainly switch to frozen if there is a price advantage.

As a result, we are materially impacted on two front in the market these days as both cheap imported canned shrimp and cheap imported frozen shrimp are pushing down price and causing us to cut back on our production as the consumer substitutes lower priced frozen for the canned shrimps she used to purchase.

As we have seen more and more of our market go away, the impact on our business has been substantial. Our business has been cut in half over the past few years. While we have 12 peelers in our plant, only five or six of these peelers are currently in operation.

Prior to 2000, we had significant sales with what we refer to as private label customers. Customers that takes our cans and put their own labels on it for resale, but that business has completely evaporated as imports have taken over that market. Those customers are now buying product from Asia.

We have not given up on our business.

Bumble Bee continues to produce a high-quality product, sell that product in the marketplace. But we will not be able to stay in this business for long with prices as low as they are and going lower every day. Prices being paid for landed shrimp have been driven so low by the import competition we face in the market that is likely not enough to keep the boats in the water for much longer. And when the boats stop going out there won't be enough domestic shrimp to meet the processors needs.

In the short term, we are responding the only way we can through a reduction of production which has created the need to lay off workers until there is some recovery in the market. We are concerned that are recovery will ever come. The shrimp market has been seeing a consistent price decline over the past two years due to imports.

If we cannot obtain some relief from the dumping of imported shrimp that is destroying this market and our business, we face a very dire future which would necessitate the closure of our production facility in Louisiana.

Thank you.

MR. WARD: I would like to introduce our final witness, Mr. Jonathan Appelbaum.

MR. APPELBAUM: Good morning. I am Jonathan Appelbaum, President of Penguin Frozen Foods, a frozen food distributor based in Northbrook, Illinois.

My family has been the shrimp distribution business for three generations. I have been directly involved in shrimp distribution for approximately 20 years, and have been the president of the company since 1997.

Penguin Frozen Foods is a buyer and wholesale distributor of frozen warmwater shrimp. We sell between 15 to 20 million pounds of frozen warmwater shrimp annually. Roughly 80 to 85 percent of our shrimp are sold to the food service restaurant market, and the remainder is sold to the retail market.

The warmwater shrimp distributed by our company is sold in shell-on and in peeled form, either individually quick frozen or frozen in blocks.

The warmwater shrimp purchased by Penguin Food is predominantly shrimp landed in Texas and Louisiana. We purchase shrimp directly from shrimp boats and have the shrimp processed for a fee by processors in the Gulf. Thus, Penguin has direct relationships with both shrimp harvesters and shrimp processors. In addition, we import a small amount of shrimp from Shri Lanka, Vietnam and Honduras.

Over the last two years the United States market has seen an unprecedented surge in the volume of very low priced imported shrimp. This has led to a dramatic collapse in prices for both imports and domestically caught shrimp which began about two and a half years ago, and is showing no sign of sustainable improvement.

For example, currently prices for small and middle sizes of warmwater shrimp have fallen to levels not seen since the 1960s. We are forced to sell domestic peeled shrimp at approximately 35 percent below historic lows experienced in the last 20 years. The market right now is simply flooded with inventory of cheap dumped imported shrimp, and there is very little opportunity to sell any product with imported shrimp continuing to be offered at ridiculously low prices.

I have seen the quality of domestic shrimp steadily improve over the last 20 years, and I can tell you that overall purchasers or imported shrimp are not buying it because it is better quality, but because it is lower priced.

Penguin Frozen Foods is currently carrying twice the volume of inventory we would normally hold on sizes where there are tremendous inventories of imported shrimp. It is extremely difficult for us to sell product in this market. Headless shell-on shrimp in a 36/40 count sold in blocks or IQF is generally one of our very best sizes. Until this year the lowest price at which we have sold this size in many years was $3.50 a pound. Currently we are trying to sell this size at $3 a pound, and we can find very few takers.

Further, we have virtually no ability to sell peeled shrimp in this market. Our market for peeled shrimp is restaurants and the food service industry, and our competitors are simply buying imported peeled shrimp and dumping the price in the marketplace.

The impact of the dumped imports on prices is felt widely. The price that we can pay for shrimp is a function of what we can sell the shrimp for. And for the last 30 months we have seen the prices for what we can sell decline, and as a result the price we pay for shrimp has gone done, and our margins have been compressed.

The declining prices are death for the boats as fewer can afford to go out with a promise of even lower returns on each trip. In a normal year, 30 to

40 percent of the Gulf shrimp boat fleet would be out trawling for warmwater shrimp between January and March. Right now I would estimate that only five percent of the fleet is out on the water, if that. The rest are tied up and hoping that something, anything leads to some recovery in the market.

The processing fee we pay to our processors to process the shrimp is a set fee that is established once a year. However, if we cannot sell shrimp for fair value and the boats are unable to fish due to low prices, the amount of shrimp we have processed diminishes, and the processors are negatively affected by the decline in volume that they are processing.

In sum, depressed prices are harming everyone involved in the harvesting, production and sale of domestic shrimp. In these circumstances, the domestic industry must receive relief from dumped imports or it will not survive.

But we are not asking that all imports of shrimp be blocked. There is not a person at this table that is arguing that we should stop shrimp imports from coming into this country nor that free trade should be unreasonable restricted. Foreign shrimp is a big part of the U.S. market, but shrimp being imported into this country must be sold at a fair price, and not a dumped price or price based on artificial industry subsidization.

In recent years this market has become the dumping ground for global shrimp production as demands in Japan has declined and the European Union has imposed higher tariffs and strict sanitary standards on imported shrimp. This must end.

Without some recovery in prices this industry cannot survive. This is because shrimp is a commodity product. The primary driver in the shrimp market is price. For instance, not long ago the market for shrimp in larger sizes was held entirely by domestic shrimp and shrimp imports from Mexico. Black tiger shrimp once considered to be less desirable than other species of warmwater shrimp bought its way into the market by dropping prices until users began to switch sources. Imports have been following this model of competition ever since.

I see the prices for imports in the market as both a purchaser and seller of shrimp. Importers and foreign producers and processors make me the same ridiculously low price offers that are made to my customers. Penguin's longstanding relationship with the boats and the processors, domestic boats and processors, means that we will continue to do our best to sell domestic shrimp, but if the current trend continues we may not be in the shrimp business much longer.

Thank you.

MR. DEMPSEY: This is Kevin Dempsey from Dewey Ballantine, and since we have a few minutes left, I would just like to sum up sort of where we are.

You have heard from three fishermen from Florida, from Louisiana, and Texas, different part of the warmwater shrimp producing region of the United States. You have heard from three different processors, and you have heard from one of the major purchasers and distributors of warmwater shrimp, frozen shrimp in the United States.

And I think the story is clear from all of them. This is an industry is in crisis. Imports have been increasing at alarming rates, and prices continue to drop. In fact, we have seen prices steadily declining for 30 months now. The normal, that what had been a more of a seasonal pattern where prices would go up after the main production period, you don't see that anymore. Prices just keep dropping to ever and ever lower levels.

In fact, we are seeing pricing in the market now that we haven't seen since the 1960s, and what is the result of this?

Well, for processors what we see, as we've heard from several, is that inventory levels just continue to grow. They are unable to shell their shrimp. They keep having to drop their price. They can't drop it fast enough. They are either going to lose money or they are going to just be stuck with more and more inventory.

So what are processors doing? Well, one story we are hearing now is that several processors who are just in the cold storage business at this point are trying to transfer all of their supply, their storage to other processors and shut down their freezer operations for the winter in hopes to save some costs, and hope that maybe they come back next spring.

Then we have the same thing with fishermen. Fishermen who would normally still be going out to catch shrimp are tying up their boats, cutting off insurance, delaying maintenance and repair, hoping beyond hope that something will happen that will bring some stability and some recovery to prices in the market so they can start up again next spring.

In short, the industry is on the verge of collapse even as imports continue to grow more and more and even as prices drop lower and lower. I think this is a remarkable story of a clear case of present material injury and the threat of further injury as imports continue to grow.

It's also a clear case of where the agricultural provision for considering both the processors and the harvesters here of the industry should be considered part of the same industry together. Their interests are clearly coinciding, and it's clearly a single line of product.

Now I think my time has expired, so I will end. Thank you very much.

MR. CARPENTER: I want to thank the panel very much for your testimony. You provided us with a lot of useful information. I might add that this is an industry that we are not experts in. I think we will have a lot of questions for you, and I hope you will bear with us as we try to learn as much as possible about the industry, and develop the record to the extent possible.

We will being the questions with Mr. Bernstein from the General Counsel's Office.

MR. BERNSTEIN: Thank you, Mr. Carpenter. And as Mr. Carpenter said, this is not an industry we're familiar with, so some of the questions I ask may go to things that the industry witnesses feel are fairly basic, but we want to make sure we become knowledgeable about them.

I'll begin just by seeking some clarification of a few things that were the subject of testimony.

Mr. Cook, if I understood your testimony correctly, Bumble Bee is the only canner of shrimp in the United States; was that your testimony?

MR. COOK: We are the only warmwater canner in the United States.

MR. BERNSTEIN: Okay.

MR. COOK: There is some canners, small canners in the northwest that are coldwater.

MR. BERNSTEIN: Does your plant process or sell frozen warmwater shrimp as well or only canned?

MR. COOK: Only canned.

MR. BERNSTEIN: Okay. Yes?

MR. BLANCHARD: We do can also warmwater shrimp in our facility --

MR. BERNSTEIN: Okay.

MR. BLANCHARD: At our Indian Ridge shrimp processing plant, but it's a different process than what he does. We can boiled shrimp, and it's frozen, and it only can be sold in the frozen state. It cannot be -- Mr. Cook and them they have retardant their shrimp and it's on the shelf like we do tuna, but our product we put in a can is cooked and it's frozen, and it has to be sold frozen. It's a perishable item.

MR. BERNSTEIN: Okay, thank you.

MR. COOK: It's a vacuum pack.

MR. BLANCHARD: Yes, it's a vacuum pack.

MR. BERNSTEIN: Oh, okay. Thank you for the clarification.

Mr. Cook, in most instances, I guess, with which I am personally familiar, a canned food product is going to have differences in texture and flavor from a frozen or a fresh food product. Is shrimp any different in that regard?

MR. COOK: Slightly. Like if you would use in the preparation of a hot dish, a casserole or gumbo, you may put it into the product as an ingredient later than earlier as you would with the raw product.

MR. BERNSTEIN: Okay.

MR. COOK: It is interchangeable.

MR. BERNSTEIN: Thank you. Mr. Appelbaum, I am just curious. As an individual who processes, or excuse me, who distributes solely frozen shrimp, do you have any comments about Mr. Cook's characterization that he believes that the canned and frozen products are competitive with each other? Is that your experience as well?

MR. APPELBAUM: I don't really have any knowledge about canned products, so I am not really in a position to answer that.

MR. BERNSTEIN: Thank you. I would like to go through, I guess, walk us through some of the steps of the processing. I know this was handled by or mentioned by Mr. Gollott in the first couple of sentences in his testimony. A lot of that sort of went by fairly quickly, so I will ask him. And certainly the others who are processors who might want to contribute should feel free to answer these questions, and I will try to sort of base my questions on your slide 16 of your exhibits, which I believe is fairly comparable to one of the exhibits in Volume 2 of your petition.

First, just as a general point. You the processor are buying shrimp that has been caught by the fishermen.

Now, from what I have gathered of the testimony when you buy shrimp you are buying a specific species, a specific size and count, and it's also going to all be -- a specific purchase you make is going to be head on or headless; is that correct so far?

MR. GOLLOTT: That's correct.

MR. BERNSTEIN: Okay. You then -- is this particular purchase of shrimp then going to be processed by you in a block or when you process it are you going to be processing together with other purchases of shrimp you have made at the same time or nearly simultaneously? How does that work? Do purchases sort of maintain their identity throughout the production process? Do you intermingle things?

MR. GOLLOTT: What we normally do is we have a dock that will unload maybe 10 boats, and we put it all on one trailer, and then it's transported to the processing facility. Depending on whether it's a fresh product or a frozen product, the fresh product is de-iced, then it goes through the processing system. If the product is frozen, comes in on freezer boats, then we thaw it out and run it through the same processing system.

MR. BERNSTEIN: Okay. But I guess my question went to -- I understood that, but are you doing this sort of one purchase at a time or are you making many sort of relatively small purchases at the same time and they all get intermingled in the processing facility insofar as they are in a comparable state?

MR. GOLLOTT: The different boats get intermingled.

MR. BERNSTEIN: Okay.

MR. GOLLOTT: But we segregate the frozen shrimp from the fresh shrimp. Different sizes are segregated. They go through the plant at one time. Is that what you're asking me?

MR. BERNSTEIN: Yes, that is what I'm asking.

MR. GOLLOTT: Yes. In other words, if we are processing a shrimp and we are unloading 40/50s, we try to run all the 40/50s through the plant, and then we will run a larger, the step larger, and then we will just keep going until we get all the shrimp off of the truck.

MR. BERNSTEIN: Okay. Do you segregate by species or is that not an issue because everything you receive is the same species?

MR. GOLLOTT: Not an issue.

MR. BERNSTEIN: Okay. Is that an issue for any of the other processors? Okay.

MR. GOLLOTT: Let me clarify that.

MR. BERNSTEIN: Oh, sure.

MR. GOLLOTT: We do segregate the white and the brown shrimp, you know.

MR. BERNSTEIN: Okay.

MR. GOLLOTT: In one segment of the process we do segregate the headless shrimp, but as far as the head on shrimp most of the time it's just one species.

MR. BERNSTEIN: Okay, Mr. Blanchard, did you have something to add?

MR. BLANCHARD: Other than the white and the brown that we segregate, to clarify, the white and the brown when it is a green headless product, but besides that it's all interchangeable.

MR. BERNSTEIN: Okay, thank you very much.

Again, the purpose of these questions is merely to some extent just to get an overview of how your production process works.

Let me now ask a few questions about your slide 16 with all these various steps. Obviously, it would seem that the more steps you take in processing the more it's going to cost you as the processor to undertake that processing.

Do the prices you receive generally correspond to that? I mean, are you going to receive more for a peeled product than a shell-on product for instance?

MR. GOLLOTT: Not necessarily. It depends on the market. It depends on supply and demand. You know, it depends on what the market is for that particular product, and the size has a lot to do with the price you get. We buy the shrimp by size and weight, and we process them by size and weight, and we sell them by size and weight.

MR. BERNSTEIN: Okay. I mean, as a processor is, I guess, a particular degree of processing or particular sizes more desirable from the standpoint of -- and for purposes of this question I'm not dealing with the imports in the market, just assume there aren't imports in the market -- from the standpoint of the return it's going to get you, the price you will receive in return.

MR. GOLLOTT: Well, different years, different months the sizes changes. There is more desirable -- you know, it seems like when customers buy a certain size, they come in and, you know, everybody wants the same size, and then, you know, next month the size that's a dog this year may be a great item next month. I mean, it just constantly changes.

MR. BERNSTEIN: Do you or anyone else on the panel have any sense of what causes these change of demand among, I guess, different sizes or different natures of processing over time?

MR. APPELBAUM: Mr. Bernstein, there's a spread in prices between different sizes of shrimp, you know, but basically supply and demand can either make those spreads greater or smaller, and I think there is, you know, the end user can and will switch sizes based on those spreads.

MR. BERNSTEIN: Okay.

MR. APPELBAUM: If that answers your question.

MR. BERNSTEIN: Okay. I mean, partially what I'm asking is I understand variations in the supply. Insofar as we are talking about variations in demand what may be the cause of the variations in demand?

BY MR. APPELBAUM: You mean demand by size?

MR. BERNSTEIN: Demand by size. I mean, demand you have to respond to from your customers.

MR. APPELBAUM: I'm not totally sure I understand the question, but I mean, people might use different sizes of shrimp for different purposes.

MR. BERNSTEIN: Well, is there something

that would cause, for example, the demand for larger shrimp to increase or decrease?

MR. APPELBAUM: That's what I'm not really understanding. It's only based on, you know, supply and consequently price.

MR. BERNSTEIN: Okay. I mean, is what you are saying, and I'm not trying to put words in your mouth, I'm trying to figure this out, that basically purchasers are looking for where they think they are going to be able to get the best deal in any point in time?

MR. APPELBAUM: Yes. I mean, the best value relative to what they are trying to do, yes.

MR. BERNSTEIN: Thank you.

If it's possible -- let's go back to the processors and slide 16. If it's possible in this public session, and if not, I would ask it for the post-conference submission, could you go over what sort of equipment that you require for these various processing stages that are listed on your slide 16?

I believe there was one reference, I got down in Mr. Gollott's testimony, to Lathrum machines that do peeling. What particular steps here may require specialized equipment? Can you provide us some insight as to that, at least in the public session?

MR. GOLLOTT: Well, a little bit. Just about everything we use I think is specialized equipment. We have to have special wet tanks when we bring the shrimp in to separate the shrimp from the ice. We have to have special food pumps that pumps up to the peeling machines because we elevate the peeling machines so that gravity flows down to the Lathrum peeling machines that actually take the shell and the head off of the shrimp.

We have to have separators that separate the shell from the product. We have inspection belts that women -- we have like 12 women standing around this inspection belt taking little fish or any product off of -- you know, any undesirable product off of the line.

Then we have special grading machines that separate the sizes of the shrimp. Then we have special tables that we put the shrimp on or special packing machines that we put the shrimp on that dewaters them, that puts them in bags, and then they are folded and put on freezer racks individually five-pound boxes, and we have blast freezer that operate at probably 20 below zero, and the wind, I think, blows it about 80 miles a hour, so it's pretty unique.

From there they go into holding rooms waiting to be shipped out.

On the headless side we have tanks that we put the shrimp in, special sort like graders that separate the sizes, special belts that people pick out the different color shrimp, try to segregate them. Then it goes through special bats that go into the packing machines and pack in five-pound boxes.

So I would say the whole line is pretty special.

MR. BERNSTEIN: Thank you. That response was very helpful.

Mr. Wallis?

MR. WALLIS: Yes, the only thing I would add is a lot of the shrimp are deheaded on board the boat. And if they are not deheaded, most likely they are done by hand at the processing plant, so that's a hand, not done by a machine as far as I know on the larger shrimp.

MR. BERNSTEIN: Okay, thank you.

Mr. Blanchard?

MR. BLANCHARD: In some of our plants we also have IQF nitrogen tunnels. It's a freezing process where plants that don't blast freeze, you know, have the capability of blast freezing and using

CO_2 or nitrogen for individually quick products.

In our plant we have a cooking -- a cook, and the guarders that grade the cooked product also, also specialized belts and conveyors.

MR. BERNSTEIN: Okay. I thank all the witnesses. This testimony has been quite helpful. One request I'll make of counsel with respect to this is if in your post-conference submission you can reduce this information to writing, and I guess with respect to -- this is relevant to something I will be asking about in a few minutes.

But to the extent you can indicate or give some estimate of the value added by these various steps, I guess that would also be helpful to us.

MR. DEMPSEY: This is Kevin Dempsey. We will do our best to try to put all that down in writing and provide those estimates.

MR. BERNSTEIN: Okay, thank you very much.

Let me now ask about the following statement which was, I believe, in your response to the Commerce Department's supplemental questionnaire where you said, "The processors supporting the petition purchase relatively small amounts of imported warmwater shrimp where there was need to fill an existing order."

I believe there was also testimony to that extent from some of the processor witnesses this morning.

Could one of the industry witnesses explain the nature of the circumstances that require you to purchase these small amounts of imported shrimp?

MR. GOLLOTT: Yes, sir. I believe I can answer that for you.

We have customers that buy from us week in and week out all year. And if we run out, and if a customer wants 10 different sizes of shrimp, and we are missing a size, then that customer has to go elsewhere to buy the product.

Occasionally, we will buy imported shrimp and process them just so we can supply the customer so we don't lose the customer that has to go out and buy our competition's shrimp.

MR. BERNSTEIN: Okay, thank you.

Mr. Appelbaum?

MR. APPELBAUM: As a distributor of frozen shrimp, I can tell you that in the last year we attempted to accelerate our efforts of getting involved in imported shrimp to try and find an area where we might find some additional margin.

And with the speed and flood of imports that came in in this last year, you know, we did as badly with the imported shrimp as we did with our own domestic production.

MR. BERNSTEIN: Thank you.

Let me ask, and this question could be applicable to the shrimper witnesses as well as the processor witnesses. Do we have any issues of seasonality in this particular industry where there are going to be certain times of the year where it is not practical to fish for shrimps? Let me ask that question at the moment.

MR. WALLIS: I can answer that.

MR. CARPENTER: Okay, Mr. Wallis and then Mr. Versaggi.

MR. WALLIS: Yes. In years past, as the less shrimp were caught in the wintertime, the price always went up accordingly. And we were able to always scratch in the wintertime. When I say scratch, it's actually pay expenses and make a few dollars and keep our crews going and also keep the boats going.

It's very hard on these trawlers to tie them up for months at a time. And this last year was the first year that we tied up as long as we did, and this year is already starting that too.

But the price always went up accordingly in the wintertime that we could make it. And now the price continues to fall even in the wintertime now so we can't cover our expenses.

MR. BERNSTEIN: Mr. Versaggi, did you have anything to add?

MR. VERSAGGI: Just what Mr. Wallis said. It's just that we have always been a 12-month fishery. Certain times of the year, of course, are better than other times of the year. You try to make your money during the good times or the heart of the season. You keep your boats operating just to keep your crews in tact even though you know you're going to operate at a loss for certain months of the year.

In the past we have been able to do that. We sucked up the loss in the week and months and so on and so forth. The crew stayed together, so therefore when it's time to really start fishing for some money product you've got them there.

Now, this year here as you tie boats up these fellows have got to eat, they have got families to support. They get other jobs. Sometimes they don't come back. Sometimes it's in their blood. They just love it. They love to do that kind of work, they do come back. But it's just getting more difficult to do that, you know, in terms of this kind of production with these kind of prices to go out there in the lean part of the year.

MR. BERNSTEIN: Okay, thank you.

I mean, I guess the light seasonality with which, I guess, in an optimal market the shrimpers have to deal with, does that affect the operation of the processors at all?

MR. GOLLOTT: Sure. Yes, we're tied to the shrimpers. I have a very large fleet of freezer boats that's all tied up right now. In the past they have been able to fish all year long. The prices would rise as the boats catch decline so they could remain profitable through the winter, but it's just not possible anymore with imports.

MR. BERNSTEIN: All right. I now have a question for the lawyers, and first I want to make sure I understand your position with respect to something.

I understood you to take the position, and this was I believe at page 17 of your response to the Commerce Department questions, that when subject imports are processed within the United States, and the processed product remains within the parameters of the scope definition, processing is too minor to constitute domestic production.

Am I articulating your position accurately on this?

MR. DEMPSEY: This is Kevin Dempsey. Let me try to make this a little bit clearer.

As best we have been able to determine from surveying the industry and talking to people in the industry, we think there is really very little imported shrimp that's coming in that is being truly processed in the United States. You have some people filling in occasionally when they are missing a size, but there is just no substantial amount that we are aware of of processing where people are bringing in frozen shrimp and processing it into another form of frozen or canned shrimp in the United States.

So it's very minor in volume, and what we really have going on I think is a number of people who may describe themselves as being in the shrimp business who may be at one time in the past were processing shrimp but who are now effectively just distributors of imported shrimp, because as we discuss we in our position, the foreign exporting countries have moved up the value chain a great deal, and so more and more imports are coming in already processed, so there is less and less processing to be done of imports.

So most of what is coming in is coming in and it may be repackaged under someone label and then distributed, but it is not really undergoing significant processing in the United States.

MR. BERNSTEIN: Okay. The question I would ask, and this may be more a question for your post-conference submission than a question you can answer now, is basically for you to indicate what your position is on what quantum or degree of processing is sufficient to constitute domestic production.

As you are probably aware, the Commission has these several criteria that it has developed over time to examine whether activities that are purported to constitute domestic production are in fact sufficient to constitute domestic production.

A recent report in which you would see these, certain color television receivers from China and Malaysia, which is Investigation 731-TA-1034 and 1035 (preliminary).

If you could just discuss this issue in your submission to the extent it is one that arises either from the material we will be getting in the questionnaires or form the respondents' arguments to come, at this point I don't know, but I just think it will be useful for us to have on record what your position is on that.

MR. DEMPSEY: We will be happy to do that.

MR. CARPENTER: Okay. The second matter, which is also related with respect to domestic industry, is simply related parties. It would appear that we do have domestic producers however you would define them because they are members of the petitioner coalition who just spoke who are importers of the subject merchandise or may purchase such quantities and could fall within the related party definition.

If there is any particular producer you might think should be excluded as a related party or one where also you take a position that they shouldn't be excluded as related parties, if you could just let us know in the post-conference submission. Obviously that's likely to be proprietary information.

MR. DEMPSEY: Yes, Mr. Bernstein, we have been trying to analyze that, but obviously it will require analyzing the confidential data, so we will definitely include a section in our post-conference brief addressing that issue.

MR. BERNSTEIN: Thank you very much, Mr. Dempsey.

Turning to another matter, the petition suggests that in certain instances shrimp may have -- let me backtrack a moment and let me ask a specific question.

Mr. Appelbaum, in your testimony you said that at one point perhaps black tiger shrimp were less desirable than others. Could you explain why they were less desirable than others?

MR. APPELBAUM: Well, I think that that goes back a number of years when black tigers were just beginning to be introduced into the U.S. market. I think primarily it was over the appearance of the shrimp, the heavy black stripe on the shell was different than, you know, really anything that we had seen in the United States.

But gradually over time as the product began to come into the marketplace and people used it at a price spread it became very interchangeable with, you know, larger sizes of domestic shrimp.

MR. BERNSTEIN: Okay. So this is not a perception you would characterize as currently existing, the desirability?

MR. APPELBAUM: No.

MR. BERNSTEIN: Okay. Okay, let me go back to what I started to ask earlier before I cut myself off. There are parts of the petition that suggest that shrimp may have quality distinctions. For example, in your petition on India you claim that the

Indian home market is not a viable home market for purposes of determining normal value because the small amount of shrimp that's sold there is an inferior quality.

Also, at pages 49 to 50 of the injury volume of the petition, you claim that imports from India are declining in the Japanese market because of complaints about the quality of Indian shrimp.

I guess the first question, and this is open to anybody on the panel who cares to answer it: To what product characteristics do these characterizations of product quality that you have made in the petition pertain?

MR. WARD: I would like to address the Indian home market element of your question there.

Our best information is that there is, (a) not a large market for frozen shrimp in India in the first instance. Secondly, the frozen product that's sold there tends to be either on the small, very, very small size, or tends to be material that does not qualify as export quality, meaning for whatever reason, a variety of appearance reasons, color, the fact that it's broken, it's got pieces, that it may have other quality defects, that for those reasons it is not qualified to be sold in the export market, and that may include some of the contaminants -- antibiotics and the like that Mr. Versaggi mentioned.

So the sum total is that there is a relatively small frozen market in India, and what is there we are of the understanding is not of a comparable quality as sold for most export markets.

MR. DEMPSEY: This is Kevin Dempsey just to follow on that.

I think our view is that the shrimp that is imported into this country from the subject countries are all of relatively comparable quality; that there is not a quality problem here. We are, of course, the preeminent market and so we're getting perhaps the best shrimp. But the shrimp coming in from the subject countries here, I think, all is -- you know, we are not seeing shrimp turned away because of quality concerns.

MR. BERNSTEIN: Okay. Yes, Mr. Appelbaum.

MR. APPELBAUM: If you look at it on a size-by-size basis, and obviously the farm raise shrimp then to come in in the lower sizes, 36/40s and smaller, and for the most part the black tigers in the larger sizes.

What I have seen over this -- what I have observed in the marketplace over this last year is that the demand gravitates to the lowest price source. It seems relatively willing to move back and forth on a per size basis to the lowest price source. That's what we have seen in the market.

MR. BERNSTEIN: Talking solely about the domestically produced product, I haven't -- I neither saw in the petition nor have heard any reference in the testimony to anything such as to grading systems or color evaluation systems or anything like that.

Are there any such grading systems for domestically produced shrimp?

MR. GOLLOTT: We separate the browns from the whites. What other --

MR. BERNSTEIN: There's nothing like Grade A or Choice Grade? That's what my question is going to.

MR. VERSAGGI: There is.

MR. BERNSTEIN: There is? Okay. Could you please explain?

MR. VERSAGGI: Well, if a dock receives a boat load of shrimp and maybe there's some problem with the freezer on that particular vessel and some of the swimmerets, those are the little feet underneath the belly of the shrimp, they might start turning black, okay? That's not considered a number one shrimp or a Grade A shrimp. So the person receiving that shrimp, if he's going to peel it, it won't make any difference because the feet will come off anyway, but still he's not going to pay you the same price for a shrimp that has good pure color versus one that has some black on it. Or if it's really bad, it's what they call ringers and that's the black goes around the shell, it goes from the feet around to the shell. That will get a lower price as well. So that's a form of color and the type of thing I think you were asking for.

Is that what you mean?

MR. BERNSTEIN: Yes. Yes. What ultimately happens to those shrimp, once they get the lower price?

MR. VERSAGGI: Well, those shrimp are usually purchased and then they're sold probably as peeled meat or something of this nature. You take maybe 50 percent less for that particular size, if that size is selling for normally $2.50, it might give you a $1.25 for it, but there's a market.

It doesn't hurt the -- it's a melanosis problem. It doesn't affect the meat of the shrimp unless it's really, really bad; then you take them to the dump, but if it's just in the shell, it's just a shell characteristic, the shell comes off, and you can even take it home and peel the shell and eat it yourself and it wouldn't hurt you. It just doesn't have the eye appeal.

MR. BERNSTEIN: Okay. So what you're saying is it's just not something that could be sold in the shell because the shell is discolored.

MR. VERSAGGI: Right.

MR. BERNSTEIN: Okay. Thank you.

MR. GOLLOTT: Excuse me. That is very true. We do pack a one and a half or number two shrimp that is marketed, but we tell the people that they have black rings on them or something like that, but our facility does pack a number two shrimp and sell it as a number two shrimp at a lesser price.

MR. BERNSTEIN: Okay. Thank you.

Both Mr. Versaggi and Mr. Cook in their testimony alluded to something which is also indicated in the petition, that the great majority of U.S. shrimp is wild caught.

Is this a fact that the U.S. industry uses in marketing its product?

MR. COOK: No. The production of our plant in Louisiana is all wild caught. There are no shrimp farms in the area. So we do not use that as a marketing tool, like the Alaskan people are doing right now. I presume that's what you're referring to.

MR. BERNSTEIN: Actually, what I'm about to refer to is the situation -- I mean, I think everybody's familiar with what has happened and it's been in the news in recent months with respect to salmon, where there have been various warnings give by U.S. public health officials about the antibiotics used in farmed salmon which are not present in wild caught salmon and therefore it's thought or at least there have been news reports that eating large amounts of farmed salmon may not be ideal for people's health.

Does this have any applicability at all to the shrimp industry, what I've just talked about with the salmon?

MR. COOK: Probably not, but I tell you, I may put it on my labels now.

MR. BERNSTEIN: Okay. Mr. Versaggi and I believe Mr. Gollott had raised their hands.

MR. GOLLOTT: You know, without origin of labeling, there's no way for the consumer to know whether they're eating wild shrimp or not, so it's irrelevant whether we market our product right now because I've been in restaurants and asked them, "Hey, is this domestic shrimp?" It was black tigers, it's imports. The people that run the restaurants a lot of times don't know whether they're serving domestic or imported shrimp.

MR. VERSAGGI: One of the reasons you don't have a large farming in the United States is the fact that climatologically it's not as conducive to have a farm in the United States as it would be in one of these foreign countries where you have a more tropical type of atmosphere.

The other thing is the high price of land in the United States, the high cost of the environmental -- things that you have to go through, your own water treatment plants and things like that, the costs there are almost comparable to what we have as wild producers except in a different form. They've got the feed, they've got the water systems they have to worry about. They have all the environmental regulations that they have to be concerned with. They have the high labor costs, okay? So it's not as conducive to do a farm here as it would be in a foreign country.

The other point I'd like to make is that early on, a lot of the farms that were initiated, let's say, in Ecuador, Ecuador is kind of a pioneer in farming, a lot of that was U.S. money that went down there to open farms and that sort of thing. Those people respected the integrity of the health issues and so on and so forth. They didn't get into all the exotic antibiotics and things of this nature. But the great equalizer was the pestilence and the disease that hit these farms, which they went from, I think, in 1998 or 1999, they went from about an $800 million industry in Ecuador down to about $200 million and that was primarily due to what they call white spot disease and that's controlled with antibiotic.

Now, in the Asian theater, it seems like the regulations and the law enforcement and that sort of thing is much more lax. They don't have the same scrutiny that we would have here in this country. The Europeans picked up on it some time ago, maybe about two years ago. They started banning a lot of the product.

They had a lower standard of tolerance than the United States had. As a result, when the shrimp left they had no place to go with it. We had a five parts per million acceptance rate, whereas Europe had a 0.3 parts per million, so as long as it was under that threshold of five parts per million, it was able to enter this market and that was a loophole or an entry point that a lot of this foreign shrimp saw and that's where a lot of this dumping occurred. It happened so quick and so fast, by the time we realized what was happening, we went to Pure Food and Drug and we asked them about it and they said, well, we inspect 2 percent of the product coming into this country.

And I said, well, Europe is doing 20 percent and they're finding plenty of this stuff over there. And all this stuff is being diverted to this country. Canada closed the door to some of this shrimp, Europe closed it, Japan closed it. And this was the only country left available because these foreign countries like that need hard currency. They need yen, dollars or Eurodollars and that's what they're looking for, so those are your three major countries because they have to supply the infrastructure and pay for the things that they have in their country with that hard currency that they buy other products abroad.

And, as a result, we got blindsided and we went to the Pure Food and Drug Administration, they said, well, we'll try to do the best we can, but they're underfunded and understaffed and so on and so forth, you know, and the inspection rate was not up to what we would like to have seen.

MR. BERNSTEIN: Is there any likelihood of the U.S. regulatory system which you've alluded to -- and I know the petition goes into a great of detail --

about changes any time in the near future? I mean, your testimony seems to suggest the answer to that is no.

Does anybody on the panel have anything further or different to contribute with respect to that?

MR. VERSAGGI: Well, I wouldn't want to speculate as to what, you know, they're going to do. I mean, we just wanted them to be aware of the fact that, you know, this was going on. In fact, you know, some of this product had to be discovered within the states themselves before the FTC would really take a hard look at it.

MR. BERNSTEIN: Okay. But you're not aware of anything that's happening now that might result in tighter requirements?

MR. VERSAGGI: I couldn't say. I don't know.

MR. BERNSTEIN: Okay. Thank you.

One final question. Oftentimes in these cases, the respondents will be arguing that, well, the imported product is leading to greater availability and lower prices for the product, this stimulates demand and in the case of this particular product, it's made it now the most popular seafood product, shrimp.

I would just ask the members of the panel, do you have any particular response to that type of argument? If in fact it's made. I don't know that it will be, but that's what we frequently receive.

Mr. Appelbaum?

MR. APPELBAUM: Mr. Bernstein, it's very clear to me as a consumer that looking out into the marketplace these lower prices of shrimp that we're experiencing are not being passed on to the consumer for the most part, either in restaurants or at retail. There was a New York Times article a few weeks ago that quoted the CEO of a major restaurant chain in the United States saying why haven't you changed your shrimp prices on the menu and his answer was we've got to balance out all the other rising costs that we have. So I think in theory it would be terrific if the end user, if the consumer, was truly experiencing the lower prices of shrimp that we are certainly experiencing, but that's not the case.

MR. BERNSTEIN: Okay. I'd like to thank the panel very much for its responses.

MR. CARPENTER: Thank you, Mr. Bernstein.

Mr. Benedetto?

MR. BENEDETTO: Thank you all for your

testimony. If any of my questions deal with any proprietary information, please feel free to say so and then maybe answer later in a brief.

First off, what's the shelf life of frozen shrimp? How long does it last in inventory or on the shelf?

MR. APPELBAUM: John, with a good water glaze frozen on the shrimp, I think you could hold the shrimp for -- shell on shrimp, at any rate, would have a longer shelf life than peeled shrimp. I think you could hold it for upwards of, you know, 18 months. We certainly don't advocate that and make every effort to keep inventory moving so that we're not in that position.

Peeled shrimp probably less than a year without the shell.

MR. BENEDETTO: What I'm getting to is frozen domestic shrimp, then, going to be available year round at about the same level because even if there's seasonality in the fishing?

MR. APPELBAUM: It is available year round. Yes. We maintain inventories to hold -- and companies like us that buy and distribute shrimp maintain inventories on a year round basis to satisfy our customers.

MR. BENEDETTO: Does anyone else have any comment on that?

(No audible response.)

MR. BENEDETTO: Other than size, are there any price and quality differences between different species of warm water shrimp? We heard about the white shrimp and the brown shrimp. Do those get different prices beyond size? Or is it just the difference that they're different sizes?

MR. VERSAGGI: It varies around the country. Mostly, it's a consumer preference. You take, for instance, where Jonathan is in Chicago, there in the midwest, browns are very popular. In Florida, for instance, you know our Florida or Key West pinks are very popular. Key West pinks would be more than a brown in Florida and up in the Carolinas and so on and so forth where they produce a lot of white shrimp, of course whites are going to bring more than pink, so a lot of it has to do with the regional area and also consumer preference.

MR. APPELBAUM: I'd like to add to that, John. I think that slight premiums that could possibly be gotten for some species in certain geographic regions historically have really been wiped out in the last year or two because of this flood of imports. I mean, everything has been compressed.

MR. BENEDETTO: Anyone else?

(No audible response.)

MR. BENEDETTO: Okay. Are there price and quality differences between shrimp from different countries? Is there any quality difference between U.S. and imported shrimp? You're saying that imported shrimp is less expensive than domestic shrimp, are there also quality differences and are there quality differences between different imports?

MR. APPELBAUM: Yes, I would say that there are quality differences or at least perceived quality differences between different imports, yes.

MR. BENEDETTO: Such as?

MR. APPELBAUM: Well, depending on the species of shrimp, there may be a perception that in some countries they may be more desirable than from other countries, but, again, that scale or that ladder has all been ratcheted down and compressed because of the volumes that have come in most recently.

MR. BENEDETTO: Okay. Do the same distributors handle both imported and domestic shrimp?

MR. APPELBAUM: Yes, they do. Yes, they do.

MR. BENEDETTO: And are they mixing it all together when they sell to an end user? In other words, if somebody goes to a grocery store and buys a bag of shrimp, are they getting maybe shrimp from different sources in the same bag?

MR. APPELBAUM: I hope not in the same bag, but that could be possible. Ask me the question again.

MR. BENEDETTO: Is a distributor buying shrimp from different sources and then mixing it together?

MR. APPELBAUM: No. What a distributor would do is he would have, you know, slots for different types of shrimp and I think that most distributors today would tell you that their customers are going to gravitate to what's lowest priced, assuming that with their relationship with a particular distributor that whatever they get is going to be an acceptable quality.

MR. BENEDETTO: So then when you lose sales to imports, you lose it within a particular slot?

MR. APPELBAUM: That's correct.

MR. BENEDETTO: Is that the experience of other processors here?

(No audible response.)

MR. BENEDETTO: Okay. When did the E.U. impose tariffs and start enforcing its sanitary standards? Does anyone know more or less when that happened?

MR. DEMPSEY: The exact date -- it's been within the last few years. I'll have to provide you for the record, I think, the exact date of when the E.U. -- what they did in the case of Thailand was they revoked their preferential status or GSP and similar programs and therefore the tariffs bounced up to the higher rate and I'm just trying to see if I can give you an exact date on that. I'm not sure.

MR. BENEDETTO: Does that apply to all the subject countries in this case?

MR. DEMPSEY: No, it doesn't apply to all of them. The E.U. does impose tariffs -- unlike the United States, which has zero tariffs on shrimp, the E.U. has tariffs on all shrimp, but there are varying tariff levels between the different countries, so some countries are allowed to ship into the E.U. at a lower tariff rate than other countries. And I'll make sure we get the details on that for the post-conference brief.

MR. BENEDETTO: That would be fine.

Mr. Versaggi, you said Japan does this as well, has also started to impose higher sanitary standards on foreign shrimp?

MR. VERSAGGI: Japan's standards are very high. They scrutinize product very well because I've sold to Japan and I know that they give you a very high price, a real premium price, but they want premium quality, so they look at it very closely.

MR. BENEDETTO: And our standards are just a little bit weaker? Is that my understanding?

MR. VERSAGGI: Well, in terms of the tolerance?

MR. BENEDETTO: For chloramphenicol?

MR. VERSAGGI: Well, worldwide, chloramphenicol, FAO has declared a zero tolerance, okay? But they don't have the machinery or the testing equipment to get to zero, but they can get to .3. We were at five for a long time, which was a lot higher than what Europe was. So you had that spread between .3 and five parts per billion and that's where the big gap was and that's how --

MR. BENEDETTO: Is it still at that five, then?

MR. VERSAGGI: No, I think just recently here the Food and Drug Administration is more in line with the Europe standards now and has the same, I think it's .3 as well.

MR. BENEDETTO: Does anyone know, since

they're imposing these standards, where do the E.U. and Japan get their shrimp from now?

MR. GOLLOTT: Can I add something to Mr. Versaggi's testimony? There is only 2 percent of the shrimp sampled coming into this country by the USDA, so a lot of the stuff is slipping under the screen that's not ever sampled.

MR. BENEDETTO: I was wondering if anyone knows where the E.U. and Japan are getting their shrimp now if they're not getting it from these sources.

MR. VERSAGGI: They're buying on the open market, they're buying worldwide. Japan will buy from South America, the United States, any place, Asia.

MR. APPELBAUM: I think to a great extent, both Japan and the Europe Union buy from the same countries that the United States does, but in my experience, what I've observed is that both in -- well, the European Union because of tariffs, Japan seems to have a better ability to balance their supply and demand than we do in the United States. In the United States, when Japan's full -- when supply and demand are equalizing, Japan seems to slower stop its purchasing. In the United States, we just buy cheaper. And it just keeps going down and down and down.

MR. BENEDETTO: Does anyone else have anything to add on that?

(No audible response.)

MR. BENEDETTO: How much U.S. farming? Is there any? Is there any U.S. farming or is it all fished or shrimped?

MR. DEMPSEY: There is some U.S. aquaculture shrimp farming. I think we have some estimates in our petition. It's a very small percentage of total U.S. production, but there is some small amount.

MR. WALLIS: We have some in our area, some shrimp ponds, but here recently, with the price down on the shrimp, they needed the price also to take care of their overhead and some of them have tried and they're converting now to fish. Not all of them, but the ones in our local area, they have converted some to fish.

MR. BENEDETTO: And for the fishermen, that sort of leads into another question. Do you harvest anything else besides shrimp and, if so, what else? Is it just shrimp basically?

MR. WALLIS: That's all we harvest, is brown and white shrimp because our boats just work from the Mississippi River to the Rio Grande, as far as our boats go. We don't even go into Mississippi or Florida.

MR. BENEDETTO: As far as you know, are most fishermen also just basically harvesting shrimp?

MR. WALLIS: Yes. I think most shrimp boats are pretty much rigged for shrimp in the area. It would be too costly to do anything else, to be changing over. And always before, it's always been a year round fishery, so we pretty much stayed with it.

MR. DEMPSEY: Mr. Benedetto, just for the record, I'd refer you to our Exhibit 2-16 from the petition, where we have reports on farm production, which, for instance, for year 2002, in a head-on weight, you had 12.3 million pounds of farm shrimp production in the United States as compared to wild catch landings of almost 258 million pounds, so there is some, but it's a very small percentage.

MR. BENEDETTO: And Mr. Versaggi you said that a certain level of antibiotics to avoid problems with this white spot disease?

MR. VERSAGGI: Well, that seems to be the case. I mean, just from a visual aspect of it and from what I'm seeing. You know, it seemed like everybody's had severe problems with disease in high intensity type farms except this area over there.

Now, why should they be immune? I mean, it's just been recently here that they're coming up with some more genetically programmed shrimp, you know, to resist that type of disease, but this was happening a long time before that and that hasn't been perfected yet in terms of this new genetic engineering, so I have to attribute it to the fact that these ponds are usually the more intensely populated and yet the disease factor doesn't seem to be as severe, so there's something going on somewhere and the best way to control that is usually with chemicals or antibiotics or whatever.

MR. BENEDETTO: I have one more question about the processors. I asked the fishermen if they harvest anything else besides shrimp. Do the processors also handle other seafood or do you mostly just handle shrimp?

MR. GOLLOTT: The domestic processors or shrimp processors, very of them might handle a few oysters or something like that, but for the most part, the domestic shrimp processors in the United States are shrimp processors.

MR. BLANCHARD: In the state of Louisiana, we only can process shrimp in our plants. We cannot cross-contaminate oysters in our plant because of FDA regulations, so it's only shrimp.

MR. BENEDETTO: Okay. And just a couple more quick questions. Are any other frozen or canned shrimp products like marinated, spiced or sauced shrimp, are those within the scope of the investigation?

MR. WARD: As a general matter, items which are shrimp that have sauces, marinades and the like, those are covered, so we do not intend to cover prepared meals and other things that are outside the HTS numbers referenced.

MR. BENEDETTO: Do you have any feel for -- are these kind of products marinated or spiced or sauced shrimp? Are those a large part of the market?

MR. WARD: I really don't have an estimate of the market size, but I don't know if someone else knows.

MR. BENEDETTO: They're not a large amount or you don't know?

MR. APPELBAUM: Not relative to the total size of the market, no.

MR. BENEDETTO: And for the processors, does frozen breaded shrimp compete with your product at all? Is there any competition between frozen warm water shrimp and frozen breaded shrimp?

MR. GOLLOTT: No, sir. I'd say not. It's a whole different item, goes to a different market, goes through different distribution channels. It's just a different animal.

MR. BENEDETTO: Where does it go? It goes to restaurants or who gets frozen breaded shrimp as opposed to frozen shrimp?

MR. GOLLOTT: Jonathan, you might answer that better than myself.

MR. APPELBAUM: Although it would be sold through similar distribution channels, it is sold differently and once it becomes breaded, it becomes a single use item, so yes, I would say that breaded shrimp is a different product.

MR. DEMPSEY: I'd just note, Kevin Dempsey, that our understanding is that the vast majority, the overwhelming percentage, of breaded shrimp manufactured in the United States are by a few large companies that are really breading companies that bread shrimp, but also bread vegetables, onion rings and things like that, and they have their own sales operations and they tend to be very large, much larger companies, that are in the breading business as opposed to the shrimp business.

MR. BENEDETTO: But they would be shrimp

purchasers, then?

MR. DEMPSEY: Yes. They largely buy imported shrimp for breading purposes.

MR. BENEDETTO: Okay. And, now, one final question. Several witnesses have said that U.S. producers cannot supply all of the U.S. market. Would shrimp from the other countries not included in the petition, would that be enough to supply the rest of the U.S. market? In your estimate.

MR. APPELBAUM: No, it wouldn't. You mean if you excluded these six countries?

MR. BENEDETTO: If you excluded the six countries. Yes.

MR. APPELBAUM: No, it would not be enough shrimp to satisfy the U.S. market.

MR. BENEDETTO: So you're saying it's primarily a price issue, then?

MR. APPELBAUM: Yes.

MR. BENEDETTO: Okay. Thank you very much for your time. That's all my questions.

MR. CARPENTER: Thank you, Mr. Benedetto.

Mr. Mehta?

MR. MEHTA: I have no questions.

MR. CARPENTER: Okay. Mr. Forstall?

MR. FORSTALL: I have no further questions.

Thank you.

MR. CARPENTER: Mr. McClure?

MR. McCLURE: Jim McClure, Office of Investigations. Just a couple of things.

I think, Mr. Gollott, I heard you talking about people not knowing from whence the shrimp they're eating came and I was confused. It sounded as though you were saying there wasn't anything by way of country of origin, a marking in the packaging, and having looked at frozen shrimp in the Safeway quite a lot recently, I haven't eaten any from any particular place, I did notice that it does say product of, so I obviously must have misunderstood what you were saying.

MR. GOLLOTT: Most of our shrimp end up in restaurants and people like that. Most shrimp, most restaurants do not put origin of country labeling. We have a large restaurant chain in New Orleans and people going to New Orleans would say, hey, I'm going to eat some domestic shrimp. They haven't bought any domestic shrimp in five years and I know this for a fact. We've been for country of origin labeling and the other side has been against it, they don't want to hear of it, and I think they would rather confuse people and let people think that all the shrimp they're eating is domestic shrimp.

MR. McCLURE: Okay. Now, are you saying the person, me, sitting down in a restaurant in New Orleans won't be aware of where the shrimp came from, but the restaurant that purchased it is, correct?

MR. GOLLOTT: Correct.

MR. McCLURE: Okay. That's what I was trying to clear up.

The other thing, and I apologize if this is somewhere in the petition, in its various volumes and in the supplements, but we've talked a great deal about the difference in the E.U. requirements, the Japanese requirements, with regard to the antibiotics issue and the various aspects of the differences, that may make the U.S. the only viable market.

It would help if in some form or fashion in the post-conference submissions you could lay out a short, snappy side-by-side of the differences. And I apologize if it's in there, but I know there is a good deal of narrative, but I think anything you might do to synthesize that for us would be most useful to the staff.

MR. DEMPSEY: Mr. McClure, Kevin Dempsey for the record. I don't think there's anything short and snappy in the petition. I will give you that one. We will endeavor to do something that is a little bit more user-friendly on the differences.

MR. McCLURE: Thank you. We like user-friendly.

You mentioned that the E.U. had revoked the GSP status on Thailand. Any other of the subject countries, has that happened in the E.U. or what's their status?

MR. DEMPSEY: The information I have at present, I'm not aware of any of the other subject countries being revoked, but let me check that and confirm it in my post-conference submission.

MR. McCLURE: But for the other five, is their product then coming in at the same tariff rate? Are they each at the same tariff rate or are there any differences, one country to another?

MR. DEMPSEY: The information I have is that some of the other subject countries, I think, are shipping to the E.U. at lower tariff rates than the rate that is applied to Thailand.

MR. McCLURE: But are there any differences in the other five?

MR. DEMPSEY: Among the others? Yes. I don't have that information at present, but I will try to research that and give that information to you as part of the post-conference submission.

MR. McCLURE: Okay. I have a few other things I won't worry about.

I thank you all for your testimony. It's always good to have the people who are actually in the industry doing the work come and talk to us. We always learn a lot.

MR. CARPENTER: I have a few remaining questions.

First of all, we talked about aquaculture in the U.S. and I understand from Mr. Dempsey's estimates in the petition, it sounds like it might be on the order of maybe 5 percent of total shrimp production in the U.S., even smaller perhaps.

If you'd like to look at that again further and come up with some other estimates or refine your estimates in your post-conference brief, please feel free to do that.

MR. DEMPSEY: This is Kevin Dempsey. We'll be happy to do that.

MR. CARPENTER: Okay. And I'll be asking the same question of the respondents with respect to the foreign industries, the six subject countries, this afternoon, but I was wondering if you had any estimates from your side as to what percentage for the six subject countries, what percentage of their shrimp is wild caught versus farm raised?

MR. WARD: We have some information and we'll be happy to summarize all of that in the post-conference, whatever we're able to collect for you.

MR. CARPENTER: Thank you. That would be good.

Secondly, I've seen some figures, I don't know how accurate they are, about landings of shrimp in the United States and the numbers seem to be going down. In listening to your testimony, it sounds like perhaps fewer shrimp may be caught just because of the price pressures.

I was wondering also to what extent there may be dwindling supplies available to fishermen in the United States?

Could someone respond to that?

MR. GOLLOTT: Yes, sir. I think if you'll check the figures, we had a bumper crop this year. Actually, the landings have stayed pretty consistent throughout the years, with a few years having larger numbers. Actually, the landings were up considerably this year, but due to the prices being so low, the value has really dropped.

MR. CARPENTER: Mr. Versaggi first.

MR. VERSAGGI: The National Marine Fisheries Service laboratory in Galveston, Texas, they do a shrimp assessment study each year and they make a report to the industry. Each one of the major species, the whites, the pinks and the browns, are all healthy stocks, they're not being over fished, they're not nearing over fishing capacity, so the product -- the resource is there, it's just a question of can you harvest it. But, like we've said, we can't harvest the 900 million pounds out of the Gulf of Mexico or the south Atlantic. We know that and we're not trying to stop them. What we want is fair trade and we want a fair price for the product that's being produced.

On the average, nationally, I think the figure is somewhere around 300 million pounds of shrimp caught, but that includes the cold water and everything. In the Gulf of Mexico, in the southeast area, I think it's running around 172 to 200 million pounds a year.

Does that give you some idea?

MR. CARPENTER: Yes. And, actually, that's one place I was going with this question, I was wondering in your brief if you could provide -- and maybe you've already provided this in the petition and

I missed it, but could you provide information on the landings of shrimp in various parts of the country? And also to the extent that estimates are available from public sources as to what the supplies of different species of shrimp are in different parts of the country.

Is that information available?

MR. VERSAGGI: Yes, it's very available from the National Marine Fishery Service.

MR. CARPENTER: Okay. Okay. If we don't already have that on the record, we'd like to see that on the record.

Yes, sir?

MR. APPELBAUM: I just wanted to add that for the most part, there are very active shrimp fishery management measures taken along our coastal states. I think that from year to year, as to whether production goes up or down, it has a lot more to do with biologic conditions, rainfall, salinity, temperature, than it does over fishing. In any given year, if production is down, I would say it's mostly related to those biologic conditions, but also, too, as more fishermen are being forced to hang it up, there certainly is less effort out there.

MR. CARPENTER: Okay. Thank you for that.

I was also interested in terms of what factors would influence the supply from one year to the next, so that would be helpful to the extent you could provide any information on that.

MR. DEMPSEY: Mr. Carpenter, Kevin Dempsey. We'll try to summarize all of this because I think there are a number of factors. Obviously, there are the environmental, ecological factors that cause things to change from year to year, but we do think that it's also a function of fewer boats going out having an impact as well. But, again, for any individual shrimper, maybe this most recent year has been a better year in terms of total catch than some previous years, but the overall numbers, I think, show a decline in landings over the last three years, but we'll try to summarize that for the post-conference.

MR. CARPENTER: Thank you. I appreciate it.

We talked about differences in quality between domestic and imported shrimp to some extent and preferences of one species over another. I was wondering also, is there any publicly available information on sales or U.S. consumption of various species, not only the domestic species but also the imported species?

MR. DEMPSEY: This is Kevin Dempsey again.

I'm not aware of any analysis of that by different species, how much is consumed, but we'll look into it and see if there's anything we can provide for the record.

MR. CARPENTER: If is available, particularly over the time period that we're looking at in this investigation, that would be interesting.

MR. DEMPSEY: Of course. We'll be happy to do that.

MR. CARPENTER: Thank you.

A question was asked about the extent to which U.S. processors are processing imported shrimp and I understand that the processors at this table do a very small amount of that.

And, Mr. Dempsey, I think you made a comment that what you think is happening is that they are purchasing the shrimp already processed and it's the distributors who are distributing the imported processed shrimp.

Is that because it's basically more cost effective to do the processing overseas than it is here?

MR. DEMPSEY: Yes. And maybe some of the processors will want to comment on this as well, but when you factor in labor costs along with other costs, it's much cheaper to do a lot of this processing now overseas and so you've seen, I think, a real migration over the last decade or two as more and more of the value-added processing is done overseas and it's just imported already peeled, et cetera, rather than just coming in green headless.

MR. GOLLOTT: I agree with him.

MR. CARPENTER: Okay. And that supports your argument that the interests of both the fishermen and the processors in the U.S. are closely connected.

MR. DEMPSEY: Yes, that's right. I mean, the domestic processors are facing competition from imported processed products, as well as the imported green headless product. Of course, for a lot of the processors, they're making a range of these products, so they're facing competition in all these different forms, so that their interests are very closely aligned.

We think if you look at the data in our presentation on looking at wholesale prices for various shrimp and you see wholesale prices for the green headless and, say, the peeled, they correlate very closely together, right on top of each other, as the one slide we have shows, and then the price of the landed shrimp, the ex-vessel price, well, there's a gap because it's not a processed product, it's still the raw product, there's a gap. The correlation, though, between that wholesale processed price and that ex-vessel raw price are very high. They're very close, actually, to one-to-one. It's .97, I think, was our estimate over the POI for a comparable count size. So there's a very high correlation.

We think the interests of the processors, those who are still processing in the United States, and the shrimp fishermen are very strong, the correlation and the coincidence of interests.

MR. CARPENTER: Thank you, Mr. Dempsey.

Yes, sir?

MR. BLANCHARD: The imports were first introduced into this country back when aquaculture just took off, back in the early 1980s. A lot of processors in the U.S. -- and were able to produce it and generate a profit, but as time matured, well, they got wind of how we done things, got the machinery overseas, and just started competing directly with us. Over time, that cost of what we do, the labor has differential, but today, to work imports, to buy imports and process them in a domestic plant with the added costs that we have to add to that product, basically just we cannot produce it and sell it, because they've got the same product and they're selling it underneath what we did.

MR. CARPENTER: Okay. Thank you for that.

For the fishermen who are represented in the panel, to what extent are shrimp sold, I suppose, maybe more in local markets, to what extent are they sold fresh as opposed to sold to processors for freezing or canning?

Yes, sir?

MR. ST. PIERRE: We figure about 90 to 95 percent of my product goes to the processor. We cannot sell everything we catch, it's just too much. Some people do it, but it's just too much. I mean, you have to catch them, maintain your boat, and we want to come and sell our shrimp, turn around and go back out fishing. Even though our fishing is a year round industry, it's mainly seasonal where you make most of your money and in my instance, in Louisiana, we really start in the month of May and we fish to about this time, which you can continue fishing in the winter months if you want, but at some in time you must take your boat and you must invest in your boat to keep it running and this is the time of year that I paint it and I fix whatever is broken so during my season I don't have no downtime because during the bulk of the season when you make most of your money, you want to get every possible fishing day you can.

I know you asked a lot of questions of the processors, but in these times, we also provide a lot to our economy. We hire a lot of skilled laborers. We go to dry docks, we employ welders, we employ shaft machinists, propeller people. In this new day of technology, you walk into the wheelhouse of a shrimp boat, technology has taken over. We have home computers, we need technicians to come fix all our radios and radars. We have a very heavy investment. We have many different walks of life of people who depend on us to come on our boats and help us fix whatever is needed to be fixed on our boats.

Like I say, we can fish year round, but at some point in time you've got to stop for at least a month. In my case, I usually go about two months and I just go from front to back, top to bottom, totally paint it, fix, build new nets and when my season starts, I want to troll and get every possible day of fishing I can.

MR. CARPENTER: Did I understand you to say at the beginning of your answer that maybe 5 to 10 percent of the total shrimp that you catch are sold fresh at the dock?

MR. ST. PIERRE: Personally, maybe 5 percent of my shrimp I'll actually sell, but most of it, the majority of the shrimp is going to the processor. Some docks may have -- you know, they'll keep a little fresh shrimp on the dock and people will come to the dock and buy it right there, but it's only in the recent couple of years that we've had to resort to retailing because we have no other option but to try to make a few more nickels on our shrimp. And it's only your larger shrimp that you can do that to, which is only a certain time of the year, it's not year round. And it's very time consuming and we have to have more licensing. It's harder for us. We can't catch them and sell them, it's just too much. It's just too much.

MR. CARPENTER: Does anyone have a different experience?

Yes, sir?

MR. VERSAGGI: Mr. Carpenter, I think over the past 30 years you've seen more of a trend towards refrigeration on vessels, on-board refrigeration, where the shrimp are being sold, you know, frozen from the boat.

There are two reasons for that, I think. First, if you can freeze the shrimp on the boat, you're able to stay out longer. You can take your head on shrimp and freeze them and you can preserve them that way. If you catch a head on shrimp and put it on ice, most of the organs of a shrimp are in the head. When it starts to deteriorate, it bleeds back into the tail and your spoilage factor is that much quicker. You can't hold a head on shrimp as long as you can a tail shrimp, so usually in the days of ice boats, they used to head shrimp in the early part of the trip and then maybe in the last part of the trip when they had two or three days left they would start saving the small head on shrimp because they knew they were going to be able to unload them in two days or so, in three days.

The refrigeration system has changed the whole complexion of the industry. We're able to catch more head on shrimp if we want and we're able to preserve them better. The trend is you have a better quality because of the fact that the shrimp are frozen almost instantly, within an hour or two after catching them. It becomes kind of an economic factor as well. Rather than put money into ice and so on and so forth, you can put it into a refrigeration system and hopefully you'll get more money for your shrimp. A lot of the docks that unload frozen shrimp are willing to pay a dime more for the product, so you can recoup your money in an additional price increase to the product.

Some vessels aren't large enough to accommodate refrigeration systems, so they're forced to continue with the ice system.

In terms of what the total ratio is between fresh to frozen, I would say that in Scott's area in Louisiana, the in shore fisheries, you're going to find more fresh than you will frozen shrimp. The offshore fishery, you're going to find more frozen shrimp coming in, the larger boats. So I would say probably it may be -- just taking a rough guess, I mean, this is a rough guess, I would say maybe 70 percent frozen shrimp and 30 percent fresh.

MR. CARPENTER: Yes, sir?

MR. GOLLOTT: Can I add to that? With the investment and the time it takes to fish, it's just not feasible for a fisherman to come in and retail his own shrimp. Some of these shrimp do end up in the retail market, but as far as fishermen catching their shrimp and retailing them themselves, it's just not feasible.

MR. VERSAGGI: Yes, we don't sell them fresh. I mean, they still have to go to the processor. Whether it comes in fresh or it comes in frozen, it's still going to a person like Richard Gollott. It's just a question of the manner of preserving it on the vessel, but as far as your actual fresh shrimp market to the consumer, it's very, very small.

MR. CARPENTER: Very Small?

MR. VERSAGGI: Yes. Almost negligible.

MR. CARPENTER: Yes, sir?

MR. WALLIS: I just wanted to add to that. A hundred percent, all the shrimp that we unload at our facility, all goes to a processor. We don't sell anything at dockside, it all gets taken to the processor.

MR. CARPENTER: Okay.

Yes?

MR. APPELBAUM: From our experience, there's probably a little bit more of a local market for fresh shrimp in the state of Florida, primarily because of tourism, but Florida as a percentage of the total domestic catch, Florida isn't landing that much, but in all of the other states, because shrimp in general is so fragile and perishable, the vast majority of goes to a processor and is frozen. I mean, the local fresh markets in the scheme of things are very, very small.

MR. CARPENTER: Thank you. That's very helpful.

I think just one final question. Can U.S. shrimp processors command any kind of a price premium by virtue of established marketing practices or advantages in delivery times or service, et cetera? As compared to processors of the imported product.

MR. APPELBAUM: When Mr. McClure was asking his questions about identifiability, because over 80 percent of shrimp is consumed in restaurants, it's identifiability is lost. And I've sort of made it a personal practice over the years to question servers and restaurant managers as to what they know about these species or origin of their shrimp and I would say nine out of ten times they're wrong or they don't know.

At retail, while packaged product is required to be labeled with its country of origin, there is some question in my mind as to what the requirements are of product once it goes into a service counter and I believe that the retail segment of the market in general is against being obligated to label their product in a service counter and the service counter is the area of growth for the segment at retail. It's not out of the freezer case, it's out of the service counter. And because the retail segment is against labeling the product once it's in the service counter, our product is virtually indistinguishable to the end user. And for that reason it's very difficult to get any kind of a premium for it.

MR. CARPENTER: Yes, sir?

MR. ST. PIERRE: We came into town, me and Mr. Versaggi, and we had ate at a local restaurant and we make a common practice of asking is it domestic or foreign and the waitress said sure, it's domestic. So we asked where did it come from; she said New York. There's no fishermen in New York.

MR. CARPENTER: Okay.

Yes, sir?

MR. BLANCHARD: Mr. Carpenter, in the eyes of the consumers in this country, a shrimp is a shrimp no matter where it comes from, it's just a shrimp. I would say 99.9 percent of the consumers that eat shrimp only know it as shrimp, no matter where it comes from in the world.

MR. CARPENTER: Mr. Appelbaum, you mentioned it's something like 80 percent of the shrimp go into the restaurants?

MR. APPELBAUM: That's what I believe, is that about that amount goes through food service, into end users and I would have to get some statistics to try and verify that for you.

MR. CARPENTER: And is it your belief that those consumers generally do not have any specific preferences as far as species and aren't really aware of the differences between one species and another as far as maybe texture, appearance and so on?

MR. APPELBAUM: I believe that the vast majority do not and that once the restaurant applies its individual -- however it serves the dish, I think the vast majority of the end users don't know what they're eating.

MR. CARPENTER: I see.

I did have one other technical question and that's in terms of the peeling, as I understand it, there are these Laitram peeling machines which are widely used, I think at least in the United States. Is it true that there is very little hand peeling done in the United States?

MR. GOLLOTT: That's correct. It's my belief that most of the people who used to do a lot of peeling with Johnson machines, not necessarily hand peeling, but Johnson machines, which is a machine that you feed individually, you have to put each individual shrimp through this machine to peel it, and the majority of that product, that process was used by large breaders and such as this and I think due to the labor cost and the differences in having the stuff processed overseas, a lot of that has disappeared.

MR. CARPENTER: And, again, I can ask this questions of the respondents this afternoon, but do you have any idea as to what percentage of the shrimp from the subject countries is hand peeled versus machine peeled?

MR. DEMPSEY: Kevin Dempsey. I'm not aware of any statistics on that. We'll see if we can find anything for you for the post-conference brief.

MR. CARPENTER: Okay. Thank you.

Also, if you could just tell me, are there any advantages or disadvantages of the machine process versus hand peeling that you're aware of in terms of maybe damage to the product or waste percentage of product that has to be destroyed because of damage?

MR. GOLLOTT: I don't think anything is destroyed, but I don't know of a significant difference in hand peeling and machine. Machine is pretty good.

MR. CARPENTER: And I assume the machines are faster. Is that a correct assumption?

MR. GOLLOTT: It depends on your labor force.

MR. CARPENTER: It depends on the skill of the labor force.

Okay. All right. Good.

Does anyone have any other questions?

Mr. Bernstein?

MR. BERNSTEIN: I have two further questions. One is just a follow-up on a colloquy that Mr. Benedetto had with Mr. Ward about certain types of products that were outside the proposed scope and I think the two major ones I can recall were the breaded shrimp and the prepared meal.

Are the processors of the type who are represented here involved in any of the type of the further processing that would result in production of one of the out-of-the-scope products?

MR. WARD: I believe the short answer is yes, in a minor way. I believe that we have some minimal breading, very minimal breading, in separate facilities and maybe you want to ask these folks to tell you particularly about it.

MR. BERNSTEIN: Yes. I mean, if the industry witnesses could elaborate?

MR. GOLLOTT: We do a little breading in our plant. It's in a separate facility, it's a dedicated room that we've got set up just for breading. It takes special machinery to do this. It's a very small part of our business, but we do it.

MR. BERNSTEIN: Mr. Blanchard?

MR. BLANCHARD: We also have a small breading machine in our plant and it's a designated room that we have and it's a very, very limited amount of business, less than probably 1 percent of our business.

MR. BERNSTEIN: In light of this, one thing I'll ask counsel to address in the post-conference submission and the facts may be such that you don't need to address this at length, but just if you could address whether there is any type of captive production issue here, where we have to consider whether to apply that particular provision.

MR. DEMPSEY: Mr. Bernstein, Kevin Dempsey. I had hoped that maybe this would be a case that I could avoid doing captive production, after many, many cases, but we will be happy to look at that question and see if it's at all relevant.

MR. BERNSTEIN: I know, Mr. Dempsey, it's an issue you're quite familiar with, but here at the

Commission we've occasionally found the issue comes up in perhaps products where it wasn't expected. I believe one of the first instances where we had to apply it had to deal with macaroni and cheese in a pasta case.

One final question and I'll address this initially to Mr. Appelbaum, though others can contribute if they care to.

Historically, has the price of shrimp moved in conjunction with any other type of seafood product?

MR. APPELBAUM: I would say not in a distinguishable fashion. I guess over the years, could you say that perhaps against other shellfish that might be substitutes, but I don't think so. I mean, the shrimp market in general moves on its own.

MR. BERNSTEIN: Do any of the other witnesses have any observations they care to share on that?

Your light was on. Mr. Gollott.

MR. GOLLOTT: Yes, sir. I was in the distributing business for a while and shrimp stand on their own. I don't think any other seafood influences the shrimp market.

MR. BERNSTEIN: Thank you very much.

I have nothing further.

MR. CARPENTER: Mr. McClure?

MR. McCLURE: One last thing before you get away from the table, but this applies to all parties. As you know, I had sent out an e-mail asking you to be sure and execute service on the other parties to the investigation and then furnish me with a copy of a certificate of service. If you've done that and have the certificate, when we start the lunch break, I'd appreciate if you'd bring them up to me.

Mr. Sierck, you're off the hook, you've already given me yours, so thank you.

MR. DEMPSEY: For petitioners, Kevin Dempsey, we have ours and we'll be happy to get that to you.

MR. CARPENTER: I want to thank this panel very much and for the witnesses who came here today to testify, it's been a great education for us and we really appreciate your thoughtful responses to our questions.

We do have two other witnesses with short presentations that we'd like to get in before we take a lunch break, so as this panel is leaving, I would ask Mr. Rousell and also Mr. Leonard if they would come forward for their presentations.

Thank you.

(Pause.)

MR. CARPENTER: Okay. If you want to just press the green button there so that we can get you recorded? Welcome.

MR. ROUSELL: Yes, I have broad shoulders, so I'm going to be alone.

MR. CARPENTER: Go ahead, please.

MR. ROUSELL: Thank you for the opportunity to appear here. My name is John Rousell. I'm the Assistant Secretary for the Louisiana Department of Wildlife and Fisheries. I am here today to provide comments on behalf of the state of Louisiana regarding the petition that was filed on December 31st by the Ad Hoc Shrimp Trade Action Committee.

My comments will include some brief opening statements, the reading of a letter signed by Louisiana's governor, Kathleen Blanco, and then a couple of closing statements. It will be short.

The U.S. shrimp fishery is the most valuable commercial fishery in the nation and Louisiana is the largest producer of shrimp in the U.S., accounting for 38 percent of the total U.S. production and approximately 50 percent of the Gulf of Mexico region's production, which is the largest shrimp producing region in the country.

The Department of Wildlife and Fisheries' economists have estimated that Louisiana's 2001 shrimp landings with a dockside value of 187 million pounds had a total economic effect of $1.6 billion dollars and directly supported 1900 jobs.

This segment of the domestic economy has a long history and, until recently, has been stable, providing fresh products to Louisiana consumers, jobs to its citizens and a cultural imprint to the coastal shrimp producing areas of the nation.

In recent years, depressed dockside prices have severely undermined both the financial stability of the domestic shrimp industry, the jobs and wages it supports and a way of life.

Unlike what President Bush reported last night regarding the state of the union, the state of the domestic shrimp industry is not good. The state of Louisiana fully and strongly supports the filing of the anti-dumping petition against the dumping of imports into our markets.

The state also feels that it is crucial that any action be structured to provide maximum possible benefit to all who participate in the domestic shrimp industry, including harvesters of domestic shrimp and processors who utilize domestic shrimp.

It is the state of Louisiana's position that the petition should protect as much of the industry as possible as provided by law while promoting the underlying position of the petition. The most important thing to Louisiana is the survivability of the shrimp industry and the use of a trade action to promote that end.

I will now read the letter signed by Louisiana Governor Kathleen Blanco and then follow with very brief closing statements.

The letter is addressed to the Honorable Marilyn Abbott, Secretary, United States International Trade Commission, and it reads as follows:

"Dear Madam Secretary: I am writing to you to express my concern regarding the anti-dumping petition filed on December 31, 2003 against the imports of frozen and canned warmwater shrimp from Brazil, China, Ecuador, India, Thailand and Vietnam. Given the great economic importance of the shrimp industry to the state of Louisiana, I support strong action against the dumping of imported shrimp in our markets. However, I believe it is crucial that any action against the dumping of imported shrimp be structured to provide the maximum possible benefit to all who participate in the industry, including the thousands of Louisiana harvesters who earn their living by catching and selling fresh shrimp. It is my understanding that the anti-dumping petition seeks relief only against imports of frozen and canned shrimp, excluding fresh shrimp entirely. In addition, although the petition asks the International Trade Commission to consider the plight of the shrimp harvesters as part of the determination of material injury, the petition does not include fresh shrimp as part of the like product. The truth is that there is very little difference between fresh shrimp and frozen shrimp. I believe the petition should seek full redress against the imports of shrimp in a manner that will allow the domestic harvesters, as well as processors, to reap the economic benefits of the anti-dumping law. Toward this end, I urge that the like product in this investigation should be defined to protect the domestic harvesters and the producers of shrimp, as both are important to the health of the industry here in Louisiana. Thank you for your consideration in this matter. Governor Kathleen Blanco, Governor of Louisiana."

And I'll follow by just trying to encapsulate what the governor's position is and the state's position is.

It is the strong desire of the state of Louisiana that the USITC use all discretion within its power under the law to take strong action against the dumping of imported shrimp, the entire market.

It is equally the strong desire of the state of Louisiana that the USITC use all discretion within its power under the law to provide maximum possible benefit to all who participate in the domestic shrimp industry, whether they be harvesters of domestic shrimp, or processor of domestic shrimp.

Thank you for the opportunity to be here and provide comments on this important issue. I didn't plan to say this, but there were some questions that were basically questions that I think I'm qualified to answer that you asked of the previous panel regarding stability of supply and if you would like, I'd be glad to address those issues.

MR. CARPENTER: Thank you, Mr. Rousell. Let me just check and see if anyone on the staff has questions.

(Pause.)

MR. CARPENTER: I think we're okay. Thank you very much for your appearance today, for coming up here. We appreciate it.

MR. ROUSELL: Thank you.

MR. CARPENTER: Thank you.

Mr. Leonard, if you would like to bring your panel up now, please?

(Pause.)

MR. CARPENTER: Mr. Leonard, welcome. If you have a chance, if you want to introduce the witnesses you brought with you and also I would just ask for the sake of the court reporter who doesn't have your names, for those of you who are speaking, if you could just introduce yourself before you begin speaking so the court reporter can identify you in the transcript. Thank you.

(Pause.)

MR. CARPENTER: I'm not sure, Mr. Leonard, what you plan to do, but if you have individuals who are each going to make a short statement, anyone who is speaking, if they could introduce themselves.

MR. LEONARD: What we have in mind, Mr. Chairman, is to have Mr. Fabre, who is to my immediate right, give a statement and to have the other gentlemen here, all members of the Executive Board of the Louisiana Shrimp Association, available for questions if you have any questions for Mr. Fabre or for anyone else.

MR. CARPENTER: Okay. That would be good.

And I think we have all of your names, so we could add everyone's names to the transcript. Thank you.

MR. FABRE: Thank you all for having me here. I'm A.J. Fabre, President of the Louisiana Shrimp Association. With me are members of our board who are here to respond to your questions.

Our association is made up of processors and over 800 shrimpers. Our members have been battered by imports of low-priced shrimp for years. We are the ones who called for the creation of a national organization to do something about the imports. As a result, the Southern Shrimp Alliance was formed and it apparently became the Ad Hoc Shrimp Trade Action Committee, which filed the petition leading to this conference.

We are pleased that a petition against shrimp imports was filed, but the petition as filed does not appear to take care of all of the needs of the shrimpers as opposed to the interests of others. However, faced with the petition as filed and the commission's responsibility in the investigation, we want to focus the commission on the issue of what composes the products produced in the United States which is like the imports covered by the petition.

The domestic like product includes frozen and canned warmwater shrimp, the imports to which the petition is directed. Nevertheless, where we disagree with the petition is that the domestic like product is only frozen and canned warmwater shrimp. There is no question we who deal with shrimp products for our livelihood consider fresh, non-frozen shrimp to be the same product. As the law says, like imported frozen and canned warmwater shrimp.

We understand the commission considers several factors in determining whether two products are alike. Quickly, we will go through those factors to show fresh and frozen shrimp are alike.

Fresh and frozen shrimp are exactly the same. The only minor difference is that frozen shrimp will last a little longer.

Fresh shrimp can be used the same as frozen shrimp unless the fresh shrimp has been out too long and then you have to throw it away.

As far as for selling shrimp, many of the same companies that sell fresh shrimp also sell frozen shrimp. Our cooking tastes the same whether you use fresh or frozen shrimp in the recipe.

Also, it doesn't matter whether we're talking frozen or fresh, it comes from the Gulf of Mexico, along the southeastern Atlantic coast or from a foreign country. Depending on how you plan on selling it, the shrimp whether fresh or frozen goes through the same processing, whether that be taking the heads off, deveining or peeling. It doesn't matter, it's the same people doing the same heading, deveining and peeling whether it's going to be frozen or not.

If the consumer wants to put fresh shrimp in a salad, all he has to do is boil it and stick it in the salad. He can also thaw and boil frozen shrimp and stick it in a salad. To the people I know, it wouldn't make a bit of difference, they taste the same.

Of course, if you want fresh shrimp, you may have to pay a little more than you would for frozen shrimp, depending on where you live.

What I'm trying to tell you is that fresh shrimp and frozen shrimp are the same for all intents and purposes. A shrimp is a shrimp.

My members and I are ready and willing to answer any questions that you all may have for us. Thank you for your time.

MR. LEONARD: Mr. Carpenter, I just have a slight conclusion, but I don't know whether this is the appropriate time or not.

MR. CARPENTER: Please proceed.

MR. LEONARD: Shrimp boats is a-comin', their sails are in sight. Shrimp boats is a-comin', there's dancin' tonight.

Is that really true? Well, not exactly. Shrimpers are hurting, matter of factly.

Imports from too many countries pour in, against their low prices, our boats can't win.

Dumping duties are needed, that's what our folks have pleaded.

Shrimpers certainly must be heard, not to hear them would be absurd.

Because the fresh shrimp which U.S. shrimpers produce, it is their position, are part of the domestic product, like the imports of the petition.

MR. CARPENTER: Thank you, Mr. Leonard. We were hoping you wouldn't disappoint us.

Actually, I do have just a couple of questions, if I might.

I was wondering in terms of the shelf life, what is the shelf life of fresh shrimp?

MR. FABRE: It depends on how they're prepared, but it's not that long. Frozen shrimp has got a way better shelf life.

MR. CARPENTER: Right. Are we talking days -- 10 or 12 days?

MR. FABRE: Yes.

MR. BARISICH: It actually depends on how you deal with it when you catch it and ice it. George Barisich, Chairman of the Board, Louisiana Shrimp. If you deal with it and ice it immediately, it will last longer. If you keep it iced, it lasts longer, but you've got anywhere from six to ten days.

MR. CARPENTER: Six to ten days if it's stored on ice?

MR. BARISICH: Correct. And then what will happen, if you don't sell it directly, you can take it to a factory and they'll process it. It doesn't go to waste, as long as it's iced.

MR. CARPENTER: Now, I believe you said that if you want to buy fresh shrimp, you're going to have to pay a little more, but I thought I understood you to say there's essentially no difference in the taste. Why would -- I mean, I understand for most seafood products people are willing to pay more for a fresh product.

MR. FABRE: The perception of fresh versus frozen.

MR. CARPENTER: Okay. So it's more a

perception, rather than any real difference?

MR. FABRE: For the domestic product, there's not too many people eating fresh shrimp. They'll thaw it out and tell the people it's fresh.

MR. CARPENTER: I see. Okay.

Does anyone else on the panel have any questions?

Mr. Bernstein?

MR. BERNSTEIN: I have a couple of questions for counsel.

First of all, could you explain to me what the practical difference is if we between on the one hand define the domestic like product to include fresh shrimp and on the other hand doing what the petitioners contend and define the domestic industry to include the people who harvest shrimp? What is the practical difference between one route and another?

MR. LEONARD: Well, as you certainly know, Mr. Bernstein, the anti-dumping act now has been overladen with another provision as of the year 2000 and we know that as the Byrd Amendment and although we believe that the main emphasis is at Commerce to get a petition that has the covered products within it that would be what the domestic shrimpers produce, at least if we can get the domestic like product to be the product of shrimpers as well as of processors, then we believe that will be important to the commission's consideration when and if it ever has the opportunity to tell Customs who is eligible for Byrd Amendment funds.

If it's just for injury purposes, as the petitioner has said, under the processed agricultural product, that's another step removed. We believe that it's very important to have the domestic like product, which we disagree with the petitioner on, to have the domestic like product be fresh shrimp and be the shrimp that our producers, our shrimpers, catch and land.

MR. BERNSTEIN: In cases where the Commission has previously applied the grower-processor provision in reaching an affirmative determination, and I know there are the former cases, has the commission not in fact included in its list of companies supporting the petition to the Customs Service growers? When they've found to be members of the domestic industry.

MR. LEONARD: Well, we have seen, I believe, at least in one case that I am aware of, there was no disagreement on any of the domestic parties, there was agreement that there were, if you will, two industries that were the domestic industries affected by the imported products and there, I believe, it probably was appropriate that the commission recommend it. Of course, we don't have that situation yet here and so we're trying to clarify the situation and make it as clear as possible that what the shrimpers produce, which is the fresh shrimp, is as like the imported product as is frozen and processed shrimp.

MR. BERNSTEIN: Okay. My final question goes to a technical legal point. Your presentation assumed that what the Commission would use as a like product analysis is what we call the traditional like product analysis. However, to some extent, we're evaluating the upstream product and a further processed product. In that event, I'd appreciate in your post-conference submission if you could (1) discuss whether this should not be in fact evaluated under the semifinished product like product analysis and (2) analyze the factors that the Commission considers under that analysis and indicate to what extent or how they may support the result you advocate.

MR. LEONARD: We shall do so.

MR. CARPENTER: Thank you very much, gentlemen, for making the trip up here today. We appreciate your testimony and the commission will carefully consider your testimony, as well as any additional information you may provide in a post-conference statement.

I do have one brief announcement. If there is a Mr. Juan Carlos Fuente in the audience, if he could stop up here and see me at the break, I have a message for you.

At this time, we will take a break for lunch until 1:30 p.m. My understanding is that the secretary has made arrangements for those of you who are having lunches delivered here to be able to find a place to eat in the hearing room, so hopefully that's being worked out, so you can probably stay in this room.

Thank you very much.

(Whereupon, at 12:32 p.m., a luncheon recess was taken.)

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A F T E R N O O N S E S S I O N

(1:31 p.m.)

MR. CARPENTER: Could we resume the conference now, please? Please proceed, Mr. Connelly; whenever you're ready.

MR. CONNELLY: Thank you. Good afternoon, my name is Warren Connelly. I am with the Akin, Gump law firm, here representing the American Seafood Distributors Association, International Chamber of Aquaculture of Ecuador.

We are here today representing an American industry that makes an enormous contribution to this nation's economy and has a tremendous amount at state in this investigation. For the companies that you're going to hear from today and from hundreds, if not thousands like them, the outcome of this investigation is critical and a continued unrestricted access to imported shrimp is critical.

Our witnesses are very representative of the domestic processing, distributing, restaurant, and retail sectors. What you'll here from them and what you'll see in the questionnaire responses is that they cannot buy the shrimp they need from domestic sources. In addition, despite what you heard this morning, shrimp is not an undifferentiated commodity.

Different companies prefer different types and species of shrimp and establish their own proprietary specifications for them. For the most part, domestic processors cannot meet those specifications and that accounts, in substantial part, for any financial difficulties that they face.

We have a lot of ground to cover and to save a little time, I'll let each witness introduce himself.

But briefly on the like product issue, our view is that the Commission should find five like products. First, primary processed shrimp. That is shrimp that is merely beheaded and frozen. Second, value-added shrimp. That is shrimp that undergoes any further processing. Third, canned shrimp. Fourth, shrimp smaller than 250 count per pound, sometimes called salad shrimp. And fifth, freshwater shrimp.

We hope that you will question us about our position on this issue. Several of our speakers will address various aspects of this.

As to the composition of the domestic industry, it is essential that the Commission consider the position of all domestic processors, including those that import shrimp and those that produce breaded shrimp, even though breaded shrimp is not subject to the investigation. Breaded shrimp is most definitely like all other forms of processed shrimp, and we hope you'll ask about this issue.

Finally, on the issue of antibiotics, which was covered in a lot of detail this morning, we regard the information that was provided as misleading and incorrect in the extreme. To the extent that there was a suggestion that shrimp that is being diverted from the EU to the United States, it doesn't meet EU standards. So, we hope you'll ask us about that and we can explain in detail.

We'll start our presentation now with Wally Stevens.

MR. STEVENS: Good afternoon. My name is Wally Stevens. I'm the president of Slade Gorton & Co. in Boston. Slade Gorton is an importer of shrimp and many other seafood products. I previously served as chairman of the National Fisheries Institute and I'm currently the president of the American Seafood Distributors Association. ASDA has over 75 member companies that are very representative of the entire industry, involved in producing, importing, storing, distributing, and marketing imported shrimp.

Our industry employs thousands and thousands of people, generate billions of dollars in benefits for our nation's economy. This industry exists because there was not nearly enough domestic shrimp to satisfy strong and growing consumer demand. Our industry is not a new one. Rather, we have been growing steadily for about two decades, as imported shrimp has become the dominate factor in supplying the American consumers' appetite for this wonderful product. However, our growth has accelerated over the past several years, because aquaculture techniques, which George Chamberlin will describe in a few minutes, have greatly improved, leading to the establishment of shrimp industries in over 30 countries.

Prawn shrimp, not ocean caught shrimp, constitutes the vast bulk of the increased imports. Prawning of shrimp is a new and different production technology. It provides enormous competitive advantages over fishing. Shrimp fishing has always been, at best, marginally profitable. According to a Texas A&M study under the Sea Grant Program, the period from 1986 through 1997 cost the average shrimp troller 98 cents to generate each dollar of revenue. Almost all of the cost of shrimping are variable costs, like fuel, labor, pairs, and fishing gear. So, it is difficult for them to increase their profit margins through higher shrimp catches, assuming that they could increase their catches, which they cannot.

Domestic shrimp processes have always operated on very thin profit margins, as well. For example, in 2000, which was a period of higher shrimp prices in domestic catches, the petitioning processors had an operating profit margin of only 1.7 percent and a net profit of .9 percent.

Increased supply of imported shrimp has generated increased demand. Prices have decline, it is true; but the sales volume increases by our members offset those declines. This is not the case with domestic producers, however, because they cannot increase supply in response to increased demand.

One of the primary reasons why the domestic shrimp industry is a marginal business, in even the best of times, is that no organized effort has been made to capitalize on the inherent difference of wild caught shrimp, namely its taste. Two decades ago, any consumers in the Midwest preferred domestic brown shrimp; and in the northeast, they preferred domestic white shrimp. Today, that preference is very much diminished. Wild caught shrimp, like wild caught salmon, processed carefully, marketed strategically, ought to command a premium price market. Neither of those things is happening today to any significant degree.

We had asked to have urged the domestic shrimp industry to try to distinguish ocean caught domestic shrimp and not dissipate the extraordinary reputation and goodwill that is long enjoyed. We have held several joint meetings, industry meetings, and offered to buy more domestic shrimp, if they can meet the same specification that our import suppliers currently meet. Very few have responded to our offers; but those few that have are earning a price premium that we think is out there for that product. Independent experts have repeatedly urged the domestic industry to adopt a marketing campaign that establishes domestic shrimp as a premium product that commands a premium price.

Premium is just not a reflection of marketing, rather it has to reflect high quality processing and packing that, unfortunately, does not exist in many domestic plants today. That is a primary cause of the harm being suffered by domestic producers today and that is one more reason why we think the petition has no merit. Thank you.

MR. CHAMBERLIN: Good afternoon and thank you for the opportunity to address the Commission.

I'm George Chamberlin, president of the Global Aquaculture Alliance. GAA is an association of over 1,200 members from 70 countries, as well as 11 national producer associations. We are dedicated to furthering environmentally responsible aquaculture to meet world food needs. We support the aquaculture industry by disseminating information on the technology of responsible aquaculture and fostering best management practices throughout the seafood value chain. Although GAA's scope includes food species, most of our members grow, process, or distribute shrimp.

I'm, also, part owner and technical director of a 100 percent U.S. owned shrimp farming business in Malaysia, called Black Tiger Aquaculture, which produces about two million pounds a year of large black tiger shrimp. Our operation consists of 170 ponds, a hatchery, a diagnostic lab, quarantine facilities, nursery raceways, and an on-site processing plant.

As a graduate student at Texas A&M University, I worked as a researcher on commercial shrimp trawlers and saw what it takes to succeed in that business. I have great respect for shrimp fishermen and for the proud 150-year history of U.S.

shrimp fishing communities, as does everyone else here today. However, despite advances in boats, navigation systems, and trawling technology, shrimp fishing today faces a major challenge from shrimp farming.

Commercial shrimp farming emerged in the early 1980s. Today, more than 30 countries farm and export shrimp to the United States, and the number is increasing. For example, nations as diverse as Saudi Arabia, Madagascar, Belize, and Sri Lanka have substantial and growing shrimp farming industries. In 2003, shrimp farms produced about 3.5 billion pounds of shrimp. That number represents about 35 percent of worldwide production of all shrimp and about 55 percent of worldwide production of paneid shrimp, which is the primary species group fished in the United States.

The annual rate of growth in farm shrimp production has averaged about 10.5 percent in the last four years. Operators at the intensive and semi-intensive farms found in the six countries named in the petition can produce 1,000 to 6,000 pounds of shrimp per acre, per harvest, with two to three cycles per year.

Shrimp farming, though a late comer to animal husbandry, has been able to advance rapidly, by capitalizing on technology from other fields. Viral diseases, which had been a major problem, are now detected using DNA tools developed by the biomedical field. Shrimp are bread using genetic strategies applied by the poultry and swine sectors. Feed costs have been reduced using vegetable proteins, synthetic amino acids, and least cost formulation software. Today shrimp feeds convert to flesh more efficiently than feeds for pigs, chicken, or cattle.

In the past decade, shrimp farming has moved quickly to deal with the variety of challenges, such as pandemic viral diseases, market volatility, and new regulatory requirements. A recent example is the dramatic switch now underway in Asia from black tiger shrimp to the more profitable Pacific white shrimp. Although the natural range of the Pacific white shrimp is the Pacific Coast between Mexico and Peru, it is now the major species produced in China and Thailand. Remarkably, 65 percent of the farms in Thailand switched to Pacific white shrimp just last year, in order to increase production efficiency.

Pacific white shrimp is now the highest yielding shrimp species, largely due to 15 years of federally-funded research by the U.S. Marine shrimp farming consortium. That program developed specific pathogen free, that is, disease free stocks and bread them for high performance. Its animals were distributed to U.S. hatcheries, which found their most lucrative markets to be foreign producers.

Shrimp farmers in Asia and Latin America use intensive and semi-intensive methods. They tell me it cost about 90 cents to $1.65 a pound to raise small to medium size white shrimp. Although the cost of producing large shrimp is somewhat higher, this difference is expected to decline with the ongoing development of breeding programs for black tiger shrimp.

The low production costs are not the only advantage shrimp farming enjoys over shrimp fishing. Another key difference is that farmers can produce to customers' orders for specific sizes and quantities of products. Fishermen cannot meet this demand, because they don't know exactly what they'll catch or when they'll catch it. Farmers can ensure consistent delivery, because they can plan the timing of their harvest in response to customers' needs.

Two other key advantages that farmers enjoy are quality and freshness. A shrimp's condition begins to deteriorate the moment it's harvested from the ocean or from a pond. Overseas processors are usually located near shrimp ponds and receive farm shrimp within hours of harvest. They immediately process and freeze the product to ensure maximum freshness.

In contrast, the quality of captured shrimp can suffer, if boats stay out more than a day with their shrimp on ice. Shrimp trawlers that use onboard brine freezing must carefully monitor sulphate and brine concentrates at sea, which is a challenge when many crews rely on seasonal unskilled labor. Experts can easily detect the decline in appearance, texture, and flavor that result from poor handling. Shrimp trawling does have the potential to produce a top quality, differentiated product, but fishermen must respond to competitive pressure by improving handling and quality control.

Final and perhaps most important advantage of farm shrimp is just the availability. Volume of domestically caught shrimp simply cannot come close to satisfying demand in the United States. In the past 33 years, average U.S. landings have flat, at about 200 million pounds, a shell equivalent. Shrimp fishermen have not been able to increase their production, so they have not been able to share in increased domestic demand.

It's, also, important for the Commission to understand that the scope of benefits of farming extend beyond producing more quality seafood. A 2003 study, funded by the Global Aquaculture Alliance, showed that about 140,000 U.S. jobs in the processing, marketing, and distribution sectors depend on imported shrimp. This number represents a greater economic value than jobs generated by domestic shrimp fishing.

Shrimp farms and associated facilities, like hatcheries, feed mills, and processing plants, are usually located in undeveloped rural areas around the world. Shrimp farming makes an extraordinary contribution to the economic welfare of tropical developing nations and their poor coastal communities. For example, the shrimp industry employs more than one million people in Vietnam and Thailand; 600,000 in Bangladesh; and another 400,000 in China. Most of these farms are operated by individual families, with one or two ponds.

Claims that farm workers are exploited through low wages, based on my experience, are incorrect. These people, who benefit from the higher value of shrimp, compared to rice, melons, and other local produce, are grateful for the opportunity to afford more than the bare necessities of life.

In conclusion, shrimp farming is here to stay. It truly is a global industry that will provide increasing amounts of food to a hungry world population. It is, also, a fluid industry. It has reacted to past problems by adjusting and coming back stronger. If this dumping case somehow leads to a decline in shrimp supply from certain countries, it will quickly be replaced by farm product from emerging exporters, like Mexico, Indonesia, Malaysia, Bangladesh, and others, which have world class farming industries and ample potential capacity.

Global Aquaculture Alliance is highly sympathetic to the plight of U.S. fishermen. We continue to support initiatives to develop niche marketing for wild U.S. caught shrimp. We do not support unfair trade within ether the fisheries or aquaculture sectors. However, the growing disparity and cost of production between shrimp aquaculture and shrimp capture, as well as all the other advantages that farming has over shipping, is leading to an every widening competitive gap. Other seafood products are reflecting a similar trend.

On behalf of GAA's 1,200 members, if ask you to closely consider the impacts of this petition. It could raise the price of America's most popular seafood. It could cost thousands of jobs relating to processing and distribution here in the U.S. Thousands of workers in developing nations around the world could, also, lose their livelihoods. And due to the adaptive nature of shrimp farming restrictions requested in the petition would, at most, be only temporarily effective.

This concludes my remarks. Thank you for your attention.

MR. HERZIG: Good afternoon. My name is Bill Herzig and I'm the vice president of seafood purchasing for Darden Restaurants, Inc., headquartered in Orlando, Florida. Darden employ 140,000 people, in over 1,300 restaurants throughout the United States and Canada.

Red Lobster, our largest business unit, is, also, the world's largest casual dining restaurant operation. Red Lobster has a 49 percent market share in the casual dining seafood sector. It had sales of $2.4 billion in fiscal 2003, and served over 140 million guests. We, also, operate the Olive Garden, Bahama Breeze, and Smokey Bones restaurants, which offer numerous seafood items. We are very proud of the numerous awards that we won, that recognize our high quality food and our innovative menus.

Shrimp is one of the most popular seafood items that we offer. As a result, our shrimp sales have increased by about 15 percent, since Darden's fiscal year 2000. And I need to stress that during that period, we have not decreased our purchases of domestic shrimp.

To satisfy consumer demand, we purchase over 25 separate shrimp products from domestic and foreign sources, including shell on, field and deveined, cooked, skewed, stretched, and breaded of several sizes. We buy shrimp that is well harvested from the Gulf of Mexico and South Atlantic, where suppliers can meet our specifications. We view these wild harvest purchases as a premium product, where niche market can supply premium prices.

We, also, purchase significant amounts of imported farm-raised shrimp from domestic processors and resellers. For imported farm-raised shrimp, consistency and availability are key attributes. Finally, we work closely with domestic value-added processors to develop new shrimp products, such as cocktail, popcorn, marinated, and other products.

We will need to increase our shrimp purchases in future years, just to keep pace with anticipated demand. Seafood is a popular choice among health conscious casual dining consumers, and fish and shell fish are growing in popularity, because of the health conscious trends.

Industry experts predict a five to seven percent annual growth rate in sales among all casual dining restaurants over the next decade. Since shrimp is the most popular seafood in the United States, we will need to keep pace with this growth, just to retain our current market share.

While price is an important aspect when we purchase any seafood product, it is not our most important consideration. Rather, our most important consideration is quality. The quickest way for a restaurant to lose customers is to serve food that the customers find unappealing from a taste, texture, freshness, color, or appearance standpoint. Thus, we have established very strict quality standards for our shrimp products. These standards require that products be evaluated for flavor, odor, texture, size, uniformity, microbiological and contaminant standards, phosphate or chemical abuse, or sent broken pieces, or sent extraneous material, net weight, glazed percentage, black spot, throat meat, and other factors.

We consider wild caught shrimp to be a

separate product from farm raised shrimp and, thus, the two products do not compete directly with each other. There are four principle reasons why.

First, farm shrimp is available year round, unlike ocean caught shrimp, which is highly seasonal by species. For example, wild caught harvesting season for pink shrimp is generally November to March. Atlantic whites are from August to October. Gulf whites are typically from June to November, and Gulf browns are typically harvested from July to December.

Second, farm shrimp can be produced to precise and uniform sizes that maximize producer and restaurant profitability. With farm raised shrimp, we can buy single sizes that fit our customer's requirements, in truckload quantities, at any time of the year, without pressure to take other sizes. In contrast, the size of wild shrimp varies from year to year widely. For example, 4150s and smaller shrimp are often caught in the beginning of the seasons, while the larger shrimp are available towards the middle or the end. Collectively, the large wild caught shrimp are generally available from September through December, whereas the small shrimp season for PUD 70 to 200 count goes from May through August. As a result, dependence on wild caught domestic shrimp would make our company dependent on unpredictable supply, rather than on meeting consumer needs.

Third, farmed shrimp is highly consistent from order to order. We have been able to establish relationships with suppliers that we trust, who can supply us the very same product from container to container, year end and year out.

The last thing a restaurant needs is to have the taste for appearance of a menu item change from month to month. With farm shrimp, we maximize the likelihood that customers can be assured they get what they expect.

Finally, because shrimp farms operate year round, the processors of those products can easily change the style of product from time to time, to meet new customer requirements. Most of the domestic wild shrimp processors have limited seasonal processing capability and are dependent on seasonal supplies that limit their ability to react to changing customer demand.

We intend to increase our purchases of domestic shrimp, if more product meeting our standards and our consumer needs becomes available. For example, this past fall, in several of our restaurants in Tampa, we offered two new menu items that were marketed to capitalize on the fact that shrimp offered was domestic wild caught. We were testing the viability of developing a brand for this shrimp, which could result in the consumer's willingness to pay a premium price. We plan to continue this effort, as we believe domestic wild caught shrimp must become a brand, like copper river salmon, madillia onions, or black angus beef.

In summary, wild caught shrimp is not the same product as farm raised shrimp. The opportunities for the domestic wild caught shrimp industry are to be found in creating a premium marketing niche for top quality product. Since quality is our primary consideration, if the Commission grants the petitioner's proposed relief, it will not cause us to purchase additional wild caught shrimp from domestic suppliers. We will need to continue to look to imported farm raised shrimp that meets our quality specifications and abundant quantities year round.

Thank you and that concludes my remarks.

MR. MENTZER: Good afternoon. My name is Russ Mentzer, president and chief executive officer of King & Prince Seafood Corporation. We own and operate a shrimp processing plant located in Brunswick, Georgia, and we employ over 525 people at our plant.

We have been in the seafood business for over 50 years.

Our shrimp product sales exceeded $97 million in 2003. To our knowledge, we are one of the largest shrimp processors in the United States. We believe that we employ more people in the State of Georgia in shrimp production than all other shrimp harvesters and processors combined.

We purchase over 15 million pounds of shrimp per year that we process into a wide variety of value-added products that we package and sell under the King & Prince, Flying Jib, Golden Shore, Golden Supreme, and other private label brands. Our customers are located throughout the United States and include major retailers, like Cosco, and major restaurant chains, like Applebees and Red Lobster.

We sell both raw and cooked products, including popcorn shrimp, breaded shrimp, battered shrimp, marinated or sauced shrimp, shrimp dips, stuffed shrimp, and cooked cocktail shrimp. The value that we add to raw shrimp ranges from 20 to 45 percent, and it consists of the labor, ingredients, packaging, overhead, and yield costs that we incur. The value that we add to breaded products is the same as we add to many other types of products.

We buy three primary categories of raw shrimp for further processing. First, we need large- and medium-sized tail-on shrimp. The sizes range from under 15 count per pound, to 61-70 count. We use these sizes primarily for our food service customers, who buy the breaded and stuffed shrimp products that we make. With one very limited exception, no U.S. processor, to the best of our knowledge, offers these types of peeled products.

Second, we need 71-90 count and smaller raw tail-on shrimp. The tail-on feature is very important to us, because we believe that the consumer feels that that is a fresher products and it, also, helps to make the shrimp larger in appearance. We process and sell these shrimp into breaded, battered, and stuffed products that we frequently sell to restaurant chains. No domestic processor produces tail-on shrimp in these count sizes.

Third, we need 91-500 count PUDs, which is shorthand for peeled, unveined shrimp, that we use to make popcorn shrimp. Popcorn shrimp is a battered product that is fried and served as a snack or an appetizer. Domestic processors can produce machine-peeled PUDs, but their quality has proven totally unsatisfactory for our purposes. In contrast, we have been able to locate very high quality foreign sources for PUDs. Our foreign suppliers of PUDs use the exact same equipment and processing styles as domestic U.S. processors.

Specifications that we have established and that our customers expect for our products is to require the shrimp to be purchased with several critical characteristics. First, the count of the shrimp that we receive must match the count that we ordered. In other words, if we order 41-50 count shrimp, then we must receive shrimp of that size and not a higher count of smaller sizes.

Second, the net weight of the shrimp must equal the weight that we specify. If we order 100 pounds of blocked frozen shrimp, then we must receive 100 pounds net weight of shrimp and not, for example, 98 pounds of shrimp and two pounds of water.

Third, we must receive shrimp that is uniform in size. In other words, individual shrimp must not vary greatly in terms of their count per pound.

Fourth, the shrimp must be free of blemishes or disease.

Fifth, we must receive whole shrimp and not an excessive number of broken pieces when we specify whole shrimp.

Sixth, the shrimp must look fresh after thawing and not display any evidence of mishandling.

And seventh, the shrimp must be free of excess treatment of STP, a chemical used to retain water.

The problem that we have continuously faced in recent years is that we cannot purchase domestic shrimp that satisfies these requirements, regardless of the price we are willing to pay. I asked our quality control staff to look at our records, to identify the number of instances in 2003, in which we inspected domestic shrimp we had purchased. We found 32 separate purchases from 12 domestic processors, which includes some of the petitioners. Of these, 31 failed to meet our quality standards, and we'll submit the details of that information in confidence.

In contrast, we have had little or no difficulty obtaining the quality and the amount of shrimp that we need from foreign suppliers. Antidumping duties are not going to increase the ability of the domestic shrimp industry to supply us with the products we least. At least 90 percent of our total shrimp needs can only be met by foreign suppliers. This antidumping duties will not provide any benefit to domestic producers with respect to this portion of our total supply. We will likely respond by looking elsewhere around the world for alternatives. Right now, we purchase shrimp from 14 countries that are not subject to the petition. So, we have relationships that we can expand, if necessary.

That concludes my remarks.

MR. JONES: Good afternoon. My name is Ray Jones and I am vice president of food safety, quality assurance, and shrimp procurement for Rich-SeaPak Corporation. We are a domestic shrimp processor that purchases both domestic and imported shrimp and adds substantial value to it. We've been in business since 1948. Our headquarters is on St. Simons Island, Georgia, and we have three processing plants: one in Brunswick, Georgia; one in Way Cross, Georgia; and one in Brownsville, Texas. We employ approximate 800 people and currently most of our shrimp processing is down in the Brownsville, Texas plant, where we employ over 350 people.

In 2003, we processed approximately 20 million pounds of shrimp and our shrimp sales exceeded $150 million. We sell a wide variety of processed shrimp items, including breaded, battered, marinated, butterflied, stuffed, seasoned, sauced, and cooked products. We add value of at least 30 to 35 percent in our Brownsville plant and our major brands include SeaPak and Farm Rich.

Some of our shrimp customers in the retail business include Cosco, Sams, WalMart, Food Lion, and Giant Foods. And some of our major restaurant customers include Chilis, Captain Ds, Burger King, Red Lobster, and Golden Coral. We, also, supply shrimp to the military and to the schools for the school lunch program.

Total breaded shrimp sales in the U.S. exceeded $475 million in 2002. We forecast an annual close to 20 percent growth rate in breaded shrimp sales over the next several years. Our SeaPak shrimp company, breaded shrimp is the number one brand at retail in the U.S. market, where we have greater than 50 percent market share.

Over the years, we've purchased both wild caught and farmed domestic shrimp. For the last three years, we've had four domestic suppliers that can meet our specifications and supply the forms of product that we need, but they are unable to supply us with all the product we need. The domestic season is essentially June to October, with little domestic shrimp available the rest of the year in the sizes and species that we're interested in. As a result, we have to purchase greater volume of imported shrimp from at least a dozen countries, including those named in the petition. Some of the key raw materials that we need, also, are not available in adequate quantities from domestic suppliers, including pike UF, individually quick frozen shrimp, butterfly shrimp, peeled and deveined shrimp, and untreated high quality PUD, or peeled undeveined shrimp.

The issue of the PUDs is a critical one for us, because we use them to make our popcorn and other types of battered and breaded shrimp, and we process about eight to nine million pounds a year of the PUDs. We are, I believe, the largest domestic processor of battered and breaded PUD shrimp. PUDs are typically the smaller shrimp that are peeled on the latrum machines you heard about.

The problem that we consistently encounter with domestic PUDs is that they do not meet our quality specifications. Domestic PUDs typically are treated with a chemical called sodium tripolyphosphate, or STP, to add moisture or retain moisture. There's nothing per se wrong with using STP, if it's not abused and used at low levels. We use it on a number of our products, ourselves. However, we cannot use PUDs that have been treated with STP and very few domestic producers have been able to supply us with untreated PUDs.

We, also, encountered severe problems with over soaking in STP of domestic shrimp in the late 1990s. It caused us to seek out foreign suppliers. When shrimp are soaked or over soaked in STP, they get a mushy texture, soapy taste, and glassy appearance, and they do not accept the breaded or marinated nearly as easily. And if we order a five-pound block from domestic suppliers, sometimes we only get four-and-a-half pound of shrimp and a half-a-pound of water and STP.

We found we had to reject somewhere between 25 and 30 percent of the shrimp that we purchased from domestic suppliers, due to the fact that they did not meet our specification because of excessive STP or quality defects, excess broken pieces, or off count. However, we have found excellent foreign sources that have none of the quality problems of the domestic PUD shrimp.

About 50 percent of the foreign shrimp we buy is farmed, not ocean caught. Although the overall ratio of farmed ocean caught shrimp worldwide is 35-

65, we prefer the farmed shrimp, because it is available year round, provides consistent quality, flavor, and size, all of which our customers insist upon.

Quality, not price, is the most important factor we consider when evaluating potential suppliers. We have extremely detailed specification that our suppliers must meet and we personally inspect their facilities to ensure they comply with all FDA and other requirements.

The future of our company is extremely bright, so long as we are able to obtain sufficient supplies of shrimp for further processing. Several surveys indicate that Americans are eating more seafood than ever before and we expect continued growth in consumption. Shrimp is the most popular seafood to the American consumer and consumption has grown significantly over the last several years.

The petitioners, however, are trying to obstruct further growth in shrimp consumption and I think what's worse is probably even trying to reduce it. What they seek is extraordinarily high additional duties that they hope will increase our costs significantly or reduce our available supply. But, we doubt they will achieve their goal. The threat to our business could be significant, if they do.

Since our plan is in Brownsville, Texas, and our headquarters is on the coast in Georgia, we know from firsthand experience the conditions that prevail in the domestic shrimp and processing industries. We know that we cannot buy sufficient quantities of domestic shrimp to meet our needs and pass our specifications. We, also, know that domestic shrimpers cannot catch more shrimp than they do now. Antidumping duties, therefore, won't help the domestic industry sell additional shrimp to SeaPak or, I suspect, many other companies like ours. So, we hope the Commission will take these factors into account when evaluating the petitioners claims. Thank you.

MR. CATANZARO: Good afternoon. My name is Richard Catanzaro. I'm director of seafood deli and food service marketing, procurement, and new product development for H-E-B, a family-owned grocery store chain. I've been at H-E-B for nine years and in the seafood industry for over 30 years. I'm responsible for H-E-B's global shrimp purchases, so I have personal knowledge of a large number of shrimp producers around the world, as well as in southeastern U.S.

H-E-B has been in business since 1905 and employs over 55,000 people, operates over 300 stores, mainly in Texas, but also in Mexico. To the best of my knowledge, we're the largest grocery store chain in Texas, with about a 25 percent market share. All of our stores emphasize freshness, quality, and service.

Our overall seafood sales have grown over 20 percent annually for the past nine years, but this growth is not accompanied by high operating profit margins. Rather, our business strategy has always focused on increasing sales volume. We don't try to squeeze extra pennies and nickels out of the customer to boost our bottom line. That type of strategy has been counterproductive over the long term for some of our competitors.

Shrimp is an extremely important part of our seafood department. It's the favorite seafood of our customers and it continues to be the fastest growing seafood product that we sell. In 2003, we purchased about six million pounds of frozen shrimp. I imported shrimp constituted about 65 percent of our totals, mainly in valued-added, easy peeled, and cooked forms.

We do not purchase imports at the expense of the domestic industry. In fact, H-E-B is probably the largest single supermarket purchase of domestic brown shrimp and our purchases have increased 54 percent since 1999. Our company's core philosophy is to source first from Texas suppliers, then from U.S. suppliers, and last from foreign suppliers.

We have always supported the domestic shrimp industry through our buying policies. Many, if not most U.S. companies, are not capable of supplying us with the quantity and quality of the Gulf shrimp that we need. That is why we have had to rely on imports to support the growth in consumer demand. In addition, we have significant categories of customers in geographical areas like Houston, that prefer the taste of farmed white shrimp, rather than wild caught brown shrimp.

The domestic shrimp farming industry is an important part of our seasonal marketing strategy. We sell Texas fresh farm raised shrimp when it is in season. We have built our shrimp business with both domestic and foreign suppliers by working as partners, not adversaries. We're always open in new supply relationships; but we are unable to buy from many domestic shrimp sources, because only a few can meet our requirements.

For those that can, we commit to be their customer choice and give them a lot of business. We help them grow their business and they can help us grow us. We will work with them on meeting our extremely strict specifications, if they're willing to work with us. We'll market their shrimp in our weekly fliers and promote it with discounts from time to time. In the long run, these discounts help us increase demand.

Unfortunately, because of the lack of product that would meet our quality standards, we're finding it increasingly difficult to expand our support for domestic wild shrimp. In the last few years, to meet our goal to help support the domestic industry, we have had to make some exceptions to our standards and have become more lenient in our inspection protocol. This has not been the case with imported shrimp.

Consumer demand for shrimp has grown, while domestic production has not. Supply has been erratic. We need a steady assured supply for our promotions, if our promotions are going to be successful in increasing long-term demand. Even during the domestic harvesting peak season, we face challenges in sourcing high-quality shrimp. In addition, because we serve an increasingly diverse marketplace, our customers have requested a greater variety of seafood products, the preferred choice between many varieties of shrimp, and they certainly recognize the taste difference between, for example, Gulf brown shrimp and farmed white shrimp.

Cooked shrimp is another product that has grown exponentially. Although we may be the only supermarket to offer cooked shrimp from the Gulf, very little is available to us as buyers. A number of our customers of preferred cooked shrimp is increasing exponentially, because, as everyone knows, people today are time starved and want to spend less time in the kitchen preparing meals. Lots of people just don't have the time to peel, deveined, or cook shrimp. That's why our biggest growth area is IQF cooked shrimp, sold in frozen form or dethawed. Today, 80 percent of our imported product is cooked shrimp.

Finally, H-E-B sources from about a dozen countries. This includes several named in this petition. Continued unrestricted access to these markets is critical for us, to be able to supply our customers with the wide variety of shrimp products they expect. Imports do not cost domestic suppliers business. We would, otherwise, direct towards them. If the petition results in reduced imports, we'll continue to make use of alternative suppliers is other countries, with which we have already established relationships and we will undoubtedly make new ones. In our judgment, that is the best way, if not the only way, that we can continue to implement H-E-B's business philosophy.

It's taken us many years to build our current supplier base and ensure that they will always meet our quality demands. We look at profit on shrimp and the overall bottom line over the long term and not in any particular type of sale. Increasing overall shrimp sales is as helpful to domestic suppliers, not just the foreign ones, because it helps fuel the demand for the entire category.

Thank you, very much, for your time today. I look forward to answering any questions you may have.

MR. BROCK: Good afternoon. My name is John Brock and I'm the seafood coordinator and concept leader for Pappas Restaurants, headquartered in Houston, Texas. My responsibilities include seafood purchasing, quality assurance, and operations. Pappas Restaurants is a family-owned company that operates about 65 extremely popular restaurants, mainly in Texas, but, also, in five other states. We have several different restaurant concepts and seafood is in most of them.

Shrimp is a featured menu item at almost all of our restaurants, including Pappas Seafood Kitchen, Pappas Seafood House, and Pappasitos Catinos. At Pappas Seafood House, for example, we have about 15 menu items featuring shrimp. We bought over two million pounds of shrimp last year.

Unlike other companies that have testified today, we strongly prefer to use ocean caught brown shrimp in our dishes. We have found that our customers enjoy the taste of wild shrimp, which is distinguishable from farmed shrimp. The flavor difference is thought to be caused by the salty offshore environment and diet.

We have been aggressively seeking to buy domestic wild caught shrimp, but have been largely unsuccessful in doing so. For example, I attended a meeting last fall in New Orleans, which representatives of the American Seafood Distributors Association and the American Shrimp Processors Association discussed ways in which they could collaborate to increase purchases of domestic shrimp by ASDA members and other customers. In addition, over the past four years, we have talked to many domestic suppliers in an effort to buy shrimp from them. We have, also, worked shoulder to shoulder with processors to produce a domestic pack acceptable to Pappas.

We have been unable to purchase domestically the wild brown shrimp that we prefer in sufficient quantities at an acceptable packed quality level. Mexico is our primary source. However, we have recently sourced aquaculture shrimp from several countries targeted by the petition, because we could not get enough wild caught brown shrimp from our Mexican suppliers. In fact, from our perspective, domestic shrimp suppliers are competing mainly with Mexico.

The main problem that we face is that most domestic processors are unwilling to depart from their traditional practice of selling shrimp on a commodity basis. They decline to meet our packing requirements specifically, correct weights, correct counts, uniformity, level of defects, and limits on the use of chemicals. In food service, shrimp that are of the wrong size for a particular application are damaged or considered unusable for the intended purpose. We don't regard our specifications as being technically difficult to meet and our foreign suppliers have no trouble meeting them. In fact, they frequently exceed them. However, there is an incredible resistance among most domestic processors to pack shrimp in the manner that we need. But, this is what they have to do, in order to remain competitive.

Twenty years ago, domestic shrimp producers didn't have any significant competition. Now, they do and they failed to respond in ways that my company needs, if we're going to continue to be able to serve our customers what they demand. As a member of the Texas Department of Aquaculture Shrimp Advisory Board, we intend to use our expertise to promote programs like the Mark of Quality proposal, which, in our opinion, is the answer. There are a few domestic processors, who are visionaries and who are achieving this conformance level acceptably. We would like to purchase a lot more Gulf of Mexico brown shrimp; however, it's not out there now, so we have to look elsewhere around the world and we are doing so.

That completes my remarks.

MR. MCCLAIN: Good afternoon. My name is Kevin McClain. I am vice president of procurement at Chicken of the Sea. I have been involved in buying canned seafood products for more than 20 years. In my very limited time today, I want to explain to you how canned shrimp is a very different product from frozen shrimp.

First, I want to state the obvious. Canned shrimp is physically different from frozen shrimp and the difference is not just in the packaging. The majority of the canned shrimp consists of very small shrimp, equivalent to a 300-500 count, whereas the majority of frozen shrimp is much larger, under 50 count.

Second, canned shrimp has very different channels of distribution from frozen shrimp. The vast majority of frozen shrimp is sold to large food service distributors. Indeed, we heard this morning that it was 80 percent. These large distributors then resell frozen shrimp to restaurant chains. In contrast, almost no canned shrimp are sold to these distributors. Rather, almost 100 percent of canned shrimp is sold to retail outlets, principally grocery stores and supermarkets.

Third, canned shrimp and frozen shrimp are not interchangeable. Customers perceive them to be very different products. It is well known in the supermarket industry that canned goods customers are very different from frozen food customers. Customers of frozen shrimp on something that will be used immediately for a center-of-the-plate presentation. Customers of frozen shrimp want the shrimp to be the main meal. In contrast, customers of canned shrimp only want shrimp to be an ingredient in a meal. Customers of canned shrimp desire something that they can put in a cover for future use in a soup or casseroles.

The lack of interchangeability can, also, be seen from a marketing department. In their business plans, our marketing department does not worry about the price or availability of frozen shrimp; rather, they follow the price and availability of other canned proteins, such as canned chicken and canned tuna. Canned shrimp has to compete for shelf space in the shelf stable protein section of the supermarket. What is happening over in the frozen food section simply does not affect the sale of canned goods. Indeed, these sections of the supermarkets are run by different category buyers.

Fourth, the machinery and equipment needed to can shrimp is quite different from what frozen processors use. In particular, the production of canned shrimp require thermal processing to render the product shelf stable. Thermal processing involves cooking the sealed-shrimp cans a second time in a huge automator pressure cooker, to make the cans commercially sterile. Most frozen processors do not have such equipment.

Finally, the price of canned shrimp is very different from the price of frozen shrimp. According to industry trade data, the ceiling price for the small sized shrimp, 130 count, is two to two-fifty a pound; whereas the price of our customers for similar sized canned shrimp is about $10.35 a pound.

I'll be happy to answer any questions.

MR. CYRIAC: Good afternoon, members of the Commission staff. My name is Jose Cyriac. For the past five years, I've been the chairman of The Marine Products Export Development Authority of India, a statutory body under the Ministry of Commerce Department of India. MPEDA oversees the entire fishery sector of India. In this role, I'm quite familiar with all aspects of the frozen food industry in India, including farming, fishing, processing, and exports.

The overriding point that I wish to stress today is that India exports types of shrimp that are almost exclusive and not produced by the U.S. industry, except perhaps in insignificant quantities. India produces very little brown and white shrimp like that harvested from the Gulf of Mexico.

We export two types of shrimp that are sold different from other types of shrimp that constitutes separate like products. The first of these two products is the warm water salad shrimp, the tiniest type of warm water shrimp that is more akin to cold water shrimp. Salad shrimp is peeled, because of its small size, and it cannot be conveniently offered as headless. Warm water salad shrimp is generally sold in sizes 250-350 pieces per pound and 300-500 pieces per pound, exactly like cold water shrimp. It is used in salads, sandwiches, pizzas, and in wraps, served as appetizers and in omelets, quiches, soups, et cetera. Therefore, warm water salad shrimp competes exclusively with cold water salad shrimp and not with other types of warm water shrimp. Warm water salad shrimp is not interchangeable with larger sized shrimp. One would no sooner take large shrimp and cut it up to use as salad shrimp, than one would take cobey beef to make sausage.

The second type of unique shrimp exported mainly from India is macro vacuum rosenbergi, also known as the giant fresh water shrimp. This shrimp inhabits fresh water only and has distinct characteristics and uses from other warm water shrimp. Its head is distinctly larger and the meat is softer than other warm water shrimp. The taste of fresh water shrimp is more akin to lobster or crawfish than shrimp. It is sold different from shrimp, in fact, that the FAO classifies as fresh water crustacean, in the same category as crawfish, rather than under the category of shrimp and prawns.

Due to the limited time here today, we will expand on these arguments in our brief. We have samples of both salad shrimp and macro vacuum rosenbergi here in this room, if the staff is interested in viewing them.

I thank you for your time today and will be very pleased to respond to any questions you may have, either on these issues or on other issues concerning India's exports to Japan, Europe Union, et cetera. Thank you.

MR. PIERCE: Good afternoon. I'm Ken Pierce from Wilkie, Farr, and Gallagher. I'm counsel to the Thailand Frozen Foods Association and the individual members that ship shrimp to the United States market.

Thailand has long been a stable and reliable supplier of shrimp to the U.S. market. It is, also, the largest. Ninety-five percent of Thailand's shrimp production is farm raised, affording the huge and perfectly fair competitive advantage and vagaries of ancient sea catch production. In Thailand, about 1.5

million jobs are dependent on the shrimp industry, particularly the tens of thousands of shrimp farmers in the Muslim areas of the south, where stability is important to everyone's interest. The shrimp industry in Thailand discernibly moves the needle of national GDP.

Petitioner's lawyers would have the Commission believe that somehow suddenly Thailand has injured and threatened the U.S. market that it has nurtured for 20 years. Much of their claim rests on the EU's decision in March 2002, to inspect Thai imports for certain antibiotics. These inspections resulted in a decline in Thailand's exports to the EU. Petitioner's claim that the EU's actions divert massive Thai shipments to the U.S. market.

The falsity of petitioner's claim is easily demonstrated by the fact that U.S. imports from Thailand actually fell 16 percent between 2001 and 2002. There was no diversion. And today, following swift action by the Thai industry and government, the EU antibiotics issue has been largely resolved. Indeed, the importance of the EU market to Thailand had long before diminished with the 1999 loss of GSP status and the imposition of regular duties of 20 and 12 percent. Indeed, open markets in Singapore and

Japan have long been much more important to Thailand than the EU market. Australia, Korea, and Canada are, also, very important markets to Thailand.

What occurred in the U.S. market is that Thailand has moved to higher value added products, the natural economic evolution of an industry leader. While they understate the whole story, the trend is evident in U.S. import statistics, where Thailand's volume of prepared products with greater value added increased 21 percent from 2000 to 2002. Thai production has clearly moved downstream towards greater product diversification in consumer value. In contrast, between 2000-2002, the volume of all other subject imports from Thailand fell 28 percent. Thailand's POI shift downstream to value added continued in interim 2003.

The facts are that Thailand is neither a cause nor a threat of injury to the domestic industry, whether cumulated or alone. To the extent the domestic industry may have financial problems, they are self-inflicted and inherent in their chosen production, distribution, and marketing methods. No antidumping order is going to change this, because the domestic industry's problems are home grown. In other words, any injury or threat to the domestic industry is not by reason of subject imports and these investigations should terminate with a negative preliminary determination by the Commission. Thank you.

MR. NICELY: I'm Matt Nicely with Wilkie, Farr, and Gallagher, representing the Vietnamese producers of the subject merchandise. If the Commission chooses to decumulate the subject entries for countries for its threat analysis, the record will show that Vietnam presents no threat to the domestic industry however it's defined. Questionnaire responses show Vietnamese producers have been increasing capacity utilization throughout the POI, reaching better than 90 percent at the end of the POI. Further, the companies project a decline in overall process shrimp capacity and production in 2004, due, in part, to a projected decrease in available fresh shrimp supply in Vietnam.

Shortages are expected, because some shrimp farmers have switched their fields to other aquaculture crops, such as talopia. Root stocks are, also, on the decline. In addition, Vietnamese government reports indicate that political and environmental constraints will prevent further growth in aquaculture production, as the farming area is reaching its saturation point. With fewer shrimp available, Vietnam will not be able to produce as much processed shrimp for sell to the United States.

Meanwhile, shrimp processors in Vietnam have increased their marketing efforts to other countries, resulting in an almost 30 percent increase in exports to other markets from interim 2002 to interim 2003. Vietnam is shipping these increased quantities to value-added markets like Japan, where many Vietnamese producers have met customer's demands for the highest quality in the higher-priced categories of processed shrimp. Other high value Asian markets, including Korea and Taiwan, are expected to grow, as is Canada.

Vietnamese producers have, also, managed quite well the EU's inspection process, increasing the number of producers licensed to sell there. By August 2003, EU exports had increased by 74 percent over the same period in 2002. Vietnam expects future sales to the EU to increase, where it enjoys relatively low GSP duty rates and where more countries will soon be members, reducing tariffs on Vietnamese shipments to those countries, as well.

Vietnam shrimp prices to the U.S., also, present no threat. A look at the average unit values of Vietnamese shrimp shows that they're among the highest priced in the market. This is because the country's focus is on large sized, high quality, and value-added products. Current shipments to the U.S. are 95 percent black tiger shrimp, most of which are peeled and deveined. Most of the frozen shell on shrimp from Vietnam is sold in the large under 15 count size. Vietnamese shrimp is, therefore, dominant in the categories, in which competition with the domestic industry is more limited and, hence, does not pose a threat.

We'll address these points in more detail in our post-conference brief.

MR. SIERCK: My name is Alexander Sierck, counsel for the Brazilians. As to the threat issue, the Brazilians will document in their post-conference brief, they have exported more shrimp to Europe than to the United States, and that this trend is continuing. Although Brazilian exports to Europe are subject to stringent regulation of chemical residues, they have been and are now in full compliance with these European tolerance standards. Thank you.

MR. CONNELLY: Warren Connelly. I want to make a few brief remarks about Ecuador. The petitioners have claimed that Ecuador presents a threat for four reasons: significant and increasing imports, declining average unit values, significant unused capacity, and intensive use of greenhouse methods of farming. Each of these allegations is erroneous.

First, Ecuador's exports to the U.S. and to the rest of the world peaked in the period of 1997 through 1999. However, as was mentioned this morning, in 1999, the country's shrimp farms were hit with a devastating outbreak of white spot disease. Total exports in 2000 declined to 35,000 metric tons, from an average of 106,000 metric tons in the three prior years. Since 2000, production has slowly recovered and total exports reached 57,000 metric tons in 2003. However, this is just a little over half of the peak. If Ecuador's exports could reach 100,000 and more tons per year in 1997 through 1999 and not cause injury in that period, then there's no basis for finding that much smaller exports now have done so.

Second, the confidential record is not going to support the petitioner's claim that Ecuador's prices have adversely affected the domestic industry.

Third, petitioners have greatly exaggerated the extent of unused capacity that can be brought back into production. There are substantial costs associated with restoring ponds and the projections of capacity submitted by Ecuadorian processors do not support the conclusion that these ponds are being brought back quickly.

Fourth, Ecuador has not adopted widespread use of intensive farming through greenhouse methods. Only about 150 hectors are devoted to greenhouses. This is because they are very expensive to install and financing at current interest rates in Ecuador is, also, very difficult to arrange. In addition, Ecuadorian producers do not receive subsidies from the World Bank or any other national or international institution.

Finally, Ecuadorian exporters have always had substantial markets in Italy, Spain, and other parts of the EU. These markets are growing and they continue to be a substantial outlet for Ecuadorian producers. Thank you.

MR. VAKERICS: I'm Tom Vakerics with the law firm of Perkins, Coie. I'm appearing here today on behalf of the Coalition of Shrimp Exporters, Producers of south China. I would like to thank the Commission for the opportunity to appear, to testify today on behalf of the Coalition. The Coalition consists of 28 member companies, including the leading producers and exporters of shrimp in China. We wish to assure the

Commission that the Chinese industry will cooperate fully in this investigation, as evidenced by, among other things, comprehensive responses to the Commission's questionnaire.

We believe that the charges of dumping of Chinese shrimp and the alleged injury to the U.S. industry to be unfounded. Chinese imports compete fairly in the U.S., based on fair prices. These imports are competitive, because of their high quality, the consistency of their product, and the ability of Chinese producers to meet the very high demands of U.S. importers and the U.S. market.

Based upon the testimony you've heard today and other record evidence in opposition to the petition, we, respectfully, urge that the Commission issue a preliminary determination, finding that there's no reasonable basis to conclude that the U.S. industry is either injured or threatened with injury by reason of subject imports. Thank you.

MR. CONNELLY: That concludes our presentation. We'll be happy to answer your questions.

MR. CARPENTER: Thank you for your very informed presentations. We appreciate your coming here today. Begin the questions with Mr. Bernstein.

MR. BERNSTEIN: First, let me ask the various industry witnesses, which I'll characterize as the people mainly to my right, if you could clarify sort of a recurrent theme of your testimony. One thing we kept hearing from you was that you could not satisfy your requirements from domestic sources for various needs, which you went into in some detail. What I'd like to ask you is over time or certainly over the -- a little over three-year period we're dealing with here, have you switched your supply from domestic sources to imported sources, because of these difficulties?

MR. HERZIG: Over the three-year period, we have not increased our use of shrimp from offshore versus domestic. In the past three years, we've purchased very little domestic product, although we began to purchase more of it during 2003, primarily focusing on a marketing opportunity to serve the military forces with domestic products.

MR. BERNSTEIN: Mr. Stevens, do you have something? You were looking at me. Do you have something to say? Oh, okay.

Do any of the others have anything to say about either to indicate whether your purchasing patterns of domestic vis-a-vis the subject imports have changed over the last -- in the periods since 2000?

MR. MENTZER: Ours have not.

MR. JONES: Ours have not either.

MR. BERNSTEIN: Thank you, very much. I have a series of questions on things you didn't talk -- you sort of haven't talked - about for various reasons during your presentation. And given this, the first thing I'd like to raise, that you didn't seem to talk about, was the issue of price depression. One of the issues we're going to have to consider in our determination under the statute is whether the subject imports have significant price suppressing or depressing effects on the domestic like product. The petition claims that shrimp prices have gone down considerably during the period since 2000 and from external sources that have nothing to do with this case, that seems to be a generally accepted fact that domestic prices have gone down.

The question for you is, if demand has increased during this period of time and if resulting changes in subject import market share are not a function of purchasers switching from domestic sources to the subject imports, why are domestic prices going down? Why are they not just steady or why are they not rising somewhat in the time of increasing demand?

MR. CONNELLY: Well, let me take a shot at it and then we'll let everyone else express their own views. Let me see if I can summarize our views for you.

Why are domestic prices not increasing? It's a very good question. We don't understand either, except we think they told you why this morning. They told you that they hadn't made any effort to differentiate their product, which our witnesses have told you, in some instances, are strongly preferred by customers and have, thereby, dissipated what they ought to treat as a competitive advantage. That's number one.

Number two, they have not improved the quality of their product in the last two decades. What has happened here is that they have been faced by imports that are superior in quality and there's more of it. Now, there's no question that the price has gone down and that's in response to increasing demand. What is happening here is that revenues are not going down of those people, who can produce a superior product. It's simply supply has increased, because the demand has increased. It's being met with superior imported product.

MR. BERNSTEIN: Do any of the industry witnesses have any observations they'd like to make about what they believe is the cause for the decline in domestic price levels?

MR. CARPENTER: Before you answer, can I ask you to identify yourself, so the court reporter can see who you are.

MR. MENTZER: My name is Russ Mentzer. I think a document we might be able to submit following the meeting today, that would possibly help, would be tracking the prices of domestic shrimp versus imported shrimp on a price program called Earner Berry. It's a third party kind of market reporting mechanism. And I think that you'll find there that the prices for domestic shrimp are oftentimes lower than the prices for the imported shrimp of same size and value. So, if that's the case, I know in our case, we can't use the domestic product. We have to source it from externally and we literally pay more for it.

MR. BERNSTEIN: In that case, Mr. Mentzer, why are the prices for the imports going down? I mean, they're going down, as well. I mean, what has been the cause of that? And I assume your answer is not going to be dumping during the period since 2001.

MR. MENTZER: I don't believe I'm prepared trying to answer -- provide an explanation for why the prices of foreign shrimp are lower. It's just that I would note that the price of the domestic shrimp is even lower than the price of that which is imported from foreign countries.

MR. BERNSTEIN: Mr. Connelly, would you like to say something?

MR. CONNELLY: Well, the only other thing I think I would add to that is that I don't think there's any debate at all or disagreement at all, because I think I heard petitioners say this, this morning, that it cost them a whole lot more to produce shrimp than it cost a farmer to producer shrimp. And if the price is going down, it doesn't necessarily mean it's sold below cost or that it's dumped, as you've recognized. But, if you have a competitive advantage and it's more than cost, as the testimony said, and you are able to take advantage of all of those comparative advantages and you are a more efficient producer, then if the price goes down, it's in response to all of those competitive advantages. That is the problem that the domestic industry faces.

And what we're trying to convey to the Commission and what we hope you'll look at in the record is analyze what the competitive response of the domestic industry has been to farmed shrimp. Farmed shrimp is not new. I think we've heard that, also, from the petitioners this morning. Farmed shrimp started to come on in volumes in the early 1980s. So what has the competitive response been since then? And I think what you'll see is there has been none.

MR. BERNSTEIN: Okay. Let me raise some questions on issues I did not hear discussion about. And this may simply have been due to lack of time, and these questions are probably principally for the lawyers.

First of all, I don't know that I heard any argument specifically directed to cumulation. Have the various respondents at this point taken a position on cumulation? Other than one argument from India, I did not see anything from any representative of any country suggesting that their imports were somehow distinguishable from those of the other subject countries.

MR. CONNELLY: Let me answer for the group, and we'll let anybody else answer who would like to. As we sit here today, actually, we didn't answer it because we did not have time. We are not going to contest cumulation for current injury purposes, as we sit here today.

However, we have all made arguments about whether or not, considered on an individual basis, our imports from any particular country constitutes a threat. If imports are decumulated for threat purposes, we obviously, a, think that's appropriate, and b, think there is no threat.

MR. BERNSTEIN: Okay, with respect to that, I'll just ask you in your post-conference submissions to do something you are probably already intending to do, and individual country respondents who are arguing -- who want to argue that their country should not be cumulated for purposes of threat should -- we would obviously appreciate it if they would lay out the reasons for that. For the same reason we would appreciate if the petitioner, in its post-conference submission could also discuss cumulation for threat, which may have some different considerations than cumulation for material injury.

The next legal issue on which I did not hear you offer any comment is what I'll call the grower/processor issue. Do you all have any position on that that you'd like to articulate at the moment?

MR. CONNELLY: Your question is, does the processed agricultural products provision apply in this case?

MR. BERNSTEIN: Well, I guess it's a two -- I was trying to do it short haul -- shorthand -- but there would be two aspects of it. There's two possible aspects of the argument. First is whether it is applicable, and second, if it is applicable, should the Commission -- are the conditions satisfied for treating the fishermen as part of the domestic industry?

MR. CONNELLY: Yeah. We're not going to contest the application of the provision here based on the facts as we know them today. I think we all would like to see the questionnaire responses. But based on what we've seen and what we've heard, we don't intend to contest that.

MR. BERNSTEIN: Okay, thank you. Now, let me turn to something you apparently do intend to contest, which is like product.

MR. CONNELLY: Oh, yeah.

MR. BERNSTEIN: First of all, I think it would be -- I appreciate that you all, with your limited time, you were not necessarily able to elaborate on this in your presentation as much as you might have liked, but I think first, I want to make sure I understand the definition of the five domestic like products you're proposing.

Canned shrimp, I understand what canned shrimp is. Let me -- and I'm not doing these in the order you presented at first. The next one is what I believe Mr. Cyriac referred to as the salad shrimp, and either Ms. Levinson or Mr. Connelly, whoever the correct spokesperson is, could you indicate again -- I was not able to write this down -- exactly how you define this proposed product?

MS. LEVINSON: Right. You'll note that this morning the petitioners -- this is Liz Levinson, for the record. This morning the petitioners spoke mostly about brown and white shrimp coming from the Gulf, and they talked generally about sizes somewhere between 10 and maybe 50 or 60. What's coming from India is quite different, and we spoke -- Mr. Cyriac spoke specifically about salad shrimp that we define as 250 to 350 pieces per pound. That's also sold as 300 to 500 pieces per pound.

MR. BERNSTEIN: So --

MS. LEVINSON: It's very, very small.

MR. BERNSTEIN: Okay, so this is over 250 pieces per pound, is that it?

MS. LEVINSON: And, as Mr. Cyriac said, we have some here in the room if you'd like to see what it looks like.

MR. BERNSTEIN: Okay. Either Ms. Levinson or others, is this a product that is in fact produced by the domestic industry?

MS. LEVINSON: I'm going to ask Mr. Cyriac to answer that question.

MR. CYRIAC: Not the warm water species, no.

MR. BERNSTEIN: Well --

MR. CYRIAC: Cold water, yes. Cold water, yes, but not warm water.

MR. BERNSTEIN: Okay. Ms. Levinson, then I have a legal question for you.

MS. LEVINSON: Yes.

MR. BERNSTEIN: The method -- I mean, there's a long line of Commission cases indicating the domestic like product has to be either a product produced by the domestic industry, or a product most like the product produced by the domestic industry. If there is not, in fact, an analog to the domestic like product as you seek to define in this, I mean, what is the most similar product? What are we -- we can't find a non-existent domestic like product.

MS. LEVINSON: We're not saying there's a nonexistent domestic like product. There is, in fact, an industry. But there's very small production. What he said was insignificant quantities compared to

India, for example.

And what we're hoping -- the questionnaires themselves did not carve out a niche for this kind of shrimp, but we're hoping by the time this goes to a final investigation, that at that time we'd be able to see the pricing data and production data for the domestic industry.

In the meantime, as part of our brief, we will file the publicly available information that we have about production in the domestic industry.

MR. BERNSTEIN: Okay, and could you briefly describe what you believe the clear dividing line is between more than 250 pieces per pound and under 250 pieces per pound? I mean, how is this a clear, commercially recognized dividing line?

MS. LEVINSON: Well, a couple of things. One is, if you look on the internet, just do a quick research, you'll see many recipes call for salad shrimp. And what is meant by salad shrimp is a very small 250 and above. Because other kinds of shrimp are used for other purposes and do not come in those small quantities. You would not use this very small shrimp to grill or to serve as an entree, for example. They have very different uses, different physical characteristics. And we'll go through each of the like product analyses in our brief.

Do you want to add to what I just said?

MR. CYRIAC: No.

MS. LEVINSON: Okay.

MR. BERNSTEIN: Let me ask the two restaurateurs on the panel, Mr. Brock and Mr. Herzig, on the definition you just heard on salad shrimp? I don't know whether you sell shrimp salads at your restaurants or not. Red Lobster I think probably does. Is it one you've ever recognized in your commercial practice?

MR. HERZIG: I think that's fairly consistent with what we would experience in our commercial practice.

MR. BROCK: And we don't use salad shrimp.

MR. BERNSTEIN: Okay. The next like product that I'll ask about, and again, I'm not quite sure, Ms. Levinson, whether this is one of your products or not is -- what I wrote down when Mr. Connelly was reciting was freshwater shrimp, okay. Again, could you first define what you think this product to be? Or, how do you define this product?

MS. LEVINSON: Well, it is a specific species that I'm going to let Mr. Cyriac discuss, because I can't pronounce the name.

MR. CYRIAC: We brought a few samples here. It's pretty obvious. It's called macrobrachium rosenbergii, otherwise known as the freshwater shrimp.

MR. BERNSTEIN: Okay.

MR. CYRIAC: It looks more like lobster, with a very giant head. It tastes more like lobster or crawfish. It's totally different from any other species which are produced in the United States. It's a freshwater shrimp. It comes from lakes and rivers. It's cultured now in India also. It's cultured in other parts of the world also, but most of the export -- India is one of the countries that exports macrobrachium rosenbergii. Not only to the USA, but to Japan and also the European Union. The price is slightly less than, say, the similar size black tiger, but it is a totally different and distinct species, and it cannot be compared with any other type of shrimp, warm water shrimp. So we wanted to show that this is a separate product altogether.

MR. BERNSTEIN: Okay, either Ms. Levinson on Mr. Cyriac, and I'm not sure either of you can answer this question, is this -- does this particular species correspond to one of the species in the FAO species catalog, which is at Exhibit 1.1. I actually had to bring the India petition into the room. I guess, if you could just indicate in your post-conference submission, just so we know it's clear what we're talking about. How is this particular species used?

MR. CYRIAC: It's used in different ways. It's very large in size, so it could be cooked, it could be raw, when it is brought into the USA. It could be used with head on just like lobster. It could be used without head, peeled and cooked. But what distinguishes it is the extremely large size and extremely large head. But the uses are different from the normal shrimp. You would not get the small size, the very small varieties. The size would typically be about six pieces, six to eight pieces a kilogram. So that's the size, and that would be about three pieces a pound, or something like that. Or six pieces a pound.

MR. BERNSTEIN: Would this be something one is likely to find in retail? Would it be likely -- more likely to find on a restaurant menu?

MR. CYRIAC: Yes, yes. It would be found in restaurants. It would also be found in retail. Scampi, it's sometimes called Indian scampi. But it's more generally known as freshwater shrimp.

MR. BERNSTEIN: I mean, is -- if you can provide, in your post-conference submission any indication, and any of the other respondents who may now have knowledge about this as well, of this particular characterization being used, that something that might distinguish it from other types of shrimp or -- I mean, often the term scampi is used almost interchangeably with shrimp. That would be, I think, useful to us in evaluating your argument.

MS. LEVINSON: We'd be happy to do that. And while the Indians call it scampi, I don't believe the domestic industry would refer to it as scampi. In fact, we'll be able to submit some publications about, the sort of emergence of freshwater shrimp into the United States. That is where the shrimp is grown in ponds and lakes. And this is very different than the salt water shrimp. They call it freshwater shrimp, they don't call it scampi.

MR. BERNSTEIN: Okay. Let me turn again to the people to my right, and ask you, since we have the industry experts here, have any of you had exposure to this product, or deal with this product? If so, what can you tell me about it?

MR. CATANZARO: Rich Catanzaro. We actually market this product. It's quite popular in the Asian community. It's typically sold head on. We do also market it in some of the Anglo communities, which is head off, but it's a grilling shrimp, it's not a boiling shrimp. So they're very different in the styles that they're cooked, and they're very different in the flavor that they have.

MR. BERNSTEIN: Okay. In your stores, what do you market this -- what do you call this product?

MR. CATANZARO: Freshwater shrimp. Sometimes it's known as freshwater prawns, as well, in the Asian markets.

MR. BERNSTEIN: Okay. Any further --

MR. HERZIG: Bill Herzig. We do not use that shrimp in our restaurants, but it is quite a distinct species in virtually all attributes: texture, size, color, shape.

MR. BERNSTEIN: Okay, let me return back to the like product list, which, the next one I will ask about is what Mr. Connelly referred to as value added shrimp. Could you or the sponsor of this product indicate in a little more detail for me how you would define this product?

MR. CONNELLY: Yes. Warren Connelly. I think it's a very clear dividing line, and I think we heard a lot of supporting testimony from the petitioners this morning. There are processors -- what we call primary processors that perform the minimum number of processing steps to ready shrimp for sale or put it into commercial channels. So the minimum processing step is deheading, which may or may not occur in a processing plant at freezing. That's it. You've got a product that you can then put into the stream of commerce. So you have processors who do that.

And you have other processors who add a tremendous amount of value when they do that, and there was testimony with respect to the ingredients, with respect to the investment in the processing equipment, with respect to the labor, with respect to the yield costs.

So, what are these types of value adding? Peeling, deveining, cooking, saucing, marinating, breading, battering, stuffing. All these processes can add anywhere from 20 to 40 percent, I think the testimony was. And create, I think, in terms of the Commission's like product criteria, very separate like products.

MR. BERNSTEIN: Well, you seem to be going through this definition well beyond what the parameters of the proposed scope definition was.

MR. CONNELLY: No.

MR. BERNSTEIN: You aren't?

MR. CONNELLY: No.

MR. BERNSTEIN: Because I thought breading was -- well, clarify me on -- if you could clarify that, because -- are there products in this that are not covered by the proposed scope definition, and if so, what are they?

MR. CONNELLY: There are none.

MR. BERNSTEIN: There are none? Not even breaded?

MR. CONNELLY: Breaded. That is the only one.

MR. BERNSTEIN: Okay.

MR. CONNELLY: That's what Mr. Ward testified to. Someone, I forget who, asked him the question whether marinated products were covered, and he said yes. And other products I believe he was asked about and he also said yes. These are precisely the products we are talking about.

MR. BERNSTEIN: Okay. Well, I'm just trying to clarify exactly what you're getting in that's not in the proposed scope. And I keep calling it the proposed scope, because at least none of us here on the Commission staff have seen any final scope language from the Commerce Department.

MR. CONNELLY: Can I just interrupt you for a second?

MR. BERNSTEIN: Sure.

MR. CONNELLY: Because this distinction is silly. The distinction they are trying to draw on the like product basis between a breaded product and a product that has been processed in other ways, I think just will not hold up. I mean, consider the fact that they say that raw products and cooked products are the same like products. But on the one hand, you could have a breaded shrimp. And on the other hand, you could have a shrimp that is coated with batter, not breading. In scope. Or, you could have a product that has been marinated. In scope. Or you could have a product that is sauced. In scope. And they are not like products. It is illogical and inconsistent under their own terms.

So I think when you look at it closely, and we'll give you some color illustrations so you can see exactly what an alleged out of scope breaded product is, and a concededly in scope sauced or marinated or coated product is. There will be no doubt in your mind that breaded is part of the domestic like product.

MR. BERNSTEIN: Let's say we make that conclusion. The next question that arises is something I asked petitioners this morning. Exactly what type of activity, then, constitutes domestic production, since you do have entities in the domestic industry who do -- who apparently do little but bread.

MR. CONNELLY: Okay, but we quarrel with the term little.

MR. BERNSTEIN: Well, whose major activity is breading. How about that?

MR. CONNELLY: There are processors, and we haven't seen all the questionnaires, but there are certainly a significant number of processors, beyond the two that are here today, who do a lot of things and make a lot of products besides breaded shrimp. And they all add substantial value.

Our view, our legal view, is that they are part of the domestic industry because the extent of the activities they engage in is substantial. It is not minor. I recognize that the petitioners have said that the activities that the so-called value added processors and breaders do are minor. We strongly disagree with that. And I hope and think the record will show that they're wrong about that.

MR. BERNSTEIN: Okay. I think at this point it would be more productive to me just to make a request that, I guess, in your written submission, both you and petitioners address each of these products from what you know about them from, I guess, what I've tried to get the parties to define in the transcript, both in terms of the various Commission like product -- in terms of the various Commission like product criteria. With some of these products you have a potential issue of the type I asked Mr. Leonard about this morning, about whether we use the semi-finished analysis or a traditional analysis. If you care to address that, we'd certainly welcome your comments on that as well.

I would also request the parties, when you get to the issue of the domestic industry, since you don't have to spend a lot of time briefing grower/processor, to deal with this issue of exactly what type of activity is sufficient to constitute domestic production when we are dealing with processors who may not -- who may not necessarily engage in the full spectrum of activities if we are engaging in these broader definitions of like product.

Okay, let me now turn to, I guess, some of the individual witnesses. I had some follow up questions concerning the testimony. We seem to have various testimony from individual witness which, from what I heard, wasn't always consistent about whether end users, consumers, prefer the taste difference between a -- between a what? Prefer a wild caught product or a farmed product in terms of taste differences. I think, first of all, I would ask the witnesses to describe to me what these differences in taste are. Those of you who can do it -- does one have a stronger taste than the other? What is the nature of the taste differences?

MR. CATANZARO: Russ Catanzaro. There is an absolute distinction. We've done blank cuttings with our consumers as well as with people in our stores, and there is a defined difference between the two. The salty environment that the brown shrimp grows in is absolutely a more robust flavor. It is a very shrimp-like flavor, very deep tones to it. It's got a great snap to it.

Whereas, farm raised is a much milder shrimp and very consistent. We also noticed inconsistencies in the brown shrimp depending on the environment it lives in, what it feeds on, how deep it's caught. There's a number of inconsistencies there as well.

But a great-tasting brown shrimp, the way we market it, is one of the best things that you can eat that comes out of the Gulf. It's really a great-tasting product. But there are differences in the way they taste, and they're marketed differently, both farmed and wild.

MR. BERNSTEIN: Is this a regional preference in the part of the country in which you operate?

MR. CATANZARO: Yeah, we operate in Texas where brown shrimp are caught off our coast. So the state itself kind of grew up on brown shrimp. But it's transitioning, because of different tastes coming into the state, because it is the second fastest growing state in the country. And so we have a lot of different tastes and preferences coming in, whether it be ethnic or whether it be other needs from a consumer.

MR. BERNSTEIN: Mr. Herzig, you work for a nationwide chain. Have -- does your clientele, from what you can ascertain, have any preferences in the taste of shrimp? Or have you done any market research on this that indicates consumer preferences?

MR. HERZIG: Bill Herzig. What we believe needs to be done with this product is that it needs to be marketed for what it is, a domestic, wild caught product. The flavor differences that Rich mentioned are there. But the product needs to be offered in a form and at a quality level where those flavor differences can be showcased to the consumer.

MR. BERNSTEIN: Mr. Herzig, on your menus do you indicate the source of the shrimp you're serving?

MR. HERZIG: In some of our marketing tests to help promote the domestic produced wild caught shrimp we have done exactly that.

MR. BERNSTEIN: Okay. And you had mentioned two restaurants in Tampa. I mean, how extensively have you tested?

MR. HERZIG: We have done tests in Tampa, we have done testing in Louisiana, as well as other Gulf States.

MR. BERNSTEIN: Okay, if I were to go tonight to the Red Lobster in Silver Spring, Maryland, which is the closest location I can think of to where we are now -- you just opened a store there a couple of months ago -- and I were to look at the menu, would I find any information about the source or origin of the shrimp?

MR. HERZIG: Not in that restaurant, because it's not in a Gulf state where we think that will have particular market appeal. The Gulf or South Atlantic.

MR. BERNSTEIN: Mr. Brock, I mean, you do operate in a Gulf state. Do you provide any sort of information as far as type of shrimp or country of origin on the menus of your restaurants?

MR. BROCK: No, we do not.

MR. BERNSTEIN: Thank you.

Mr. McClain, the witness this morning from Bumblebee -- yes, Mr. Cook - in response to a question I asked, indicated he thought there was some overlap in use in canned seafood and seafood in small sizes -- frozen shrimp in small sizes, at least in food preparation. Do you disagree with that?

MR. McCLAIN: Our opinion is that the consumer doesn't come in thinking well, am I going to buy frozen or am I going to buy canned? They're coming in to seek canned, to be shelf-stable, to go on the shelf and it's a different product.

MR. BERNSTEIN: Well, do you contest that there may be some overlap in uses?

MR. McCLAIN: There may be some overlap. I can't say there's none.

MR. BERNSTEIN: Let me ask a question -- I have just a couple more questions, generally. Mr. Appelbaum, this morning, when I asked him if he could indicate -- if he had any idea what drove demand for particular sizes of shrimp, I recall his testimony being to the effect that well, what really drives demand is desires of purchasers for the best deal.

They can shift from size to size.

Do the people on this panel have any comment on that particular bit of testimony? Is that consistence with your experience? Do you have a different experience?

MR. BROCK: Tom Brock. The straightforward answer to that question, especially at the restaurant level, our experience, a guest, or a customer becomes accustomed to seeing a particular plate presentation. And so it, in our opinion becomes a challenge, therefore, if you are going to change that size. And even going more so, since I didn't get to complete, if you don't mind, the flavor difference. Again, there is truly a -- the flavor of a brown shrimp is much more poignant or Rich also used the word snap. You could even take it beyond flavor to the texture, the texture of a brown shrimp as opposed to an aquaculture, is more firm. Typically, you know you would call it snap, when you actually break the cooked shrimp, it can actually snap. And in addition to that, the brown shrimp has a color differential as well. It's more orange, if you will, after cooking.

MR. BERNSTEIN: Mr. Catanzaro, in your stores, do the size of shrimp available and the type of shrimp available vary on availability or where you can get the best deal, or do you find that you need to keep the same types of sizes and types of shrimp stocked in your stores during all times?

MR. CATANZARO: We're absolutely more flexible when it comes to that, because we're not held down to a menu that may once or twice a year be generated. So we have flexibility in the marketplace. What we've found is that our steadier sizes are absolutely aquaculture sizes. Where we've had to vary our sizes, because of seasonality, is the wild caught shrimp. Typically smaller shrimp in the beginning of the season. The brown shrimp start up in late July. And as the season rolls on, larger sizes come in. And they don't jump by size. Every week they grow little by little, and so they actually float from one size to the next. So we have to be very flexible in order to give the best possible quality of that product to our consumer during that season.

MR. BERNSTEIN: Mr. Herzig, do you have -- is your experience the same or different than Mr. Brock's as far as the need to purchase similar sizes throughout?

MR. HERZIG: Our experience is very similar to Mr. Brock's. We tend to offer the same menu offering from the same size on a consistent basis.

MR. BERNSTEIN: Okay. One final question is, when I asked the panel this morning they thought there was little interaction between the price of shrimp and the price of other seafood products, even shellfish products. Aside from Mr. McClain, who offered some specific testimony with respect to canned shrimp, do those of you who deal with the frozen product have any different observations on this?

MR. MENTZER: Russ Mentzer. We don't see any correlation.

MR. BERNSTEIN: Thank you very much, and thank you for all your answers.

MR. CARPENTER: Mr. Benedetto?

MR. BENEDETTO: Thank you all for coming here today and thank you for your testimony. If I ask any questions that concern any proprietary or confidential information, please feel free to answer later in a confidential brief.

First off, Mr. Connelly and the entire panel, you had said at the beginning that you would like me to ask you about the EU and the chloramphenicol issues that we heard about this morning?

MR. CONNELLY: Thank you for asking that question.

MR. BENEDETTO: So is there anything you'd like to say about that?

MR. CONNELLY: Yes, there is. I think we're going to direct the issue, first of all, to George Chamberlin who, after all, is a shrimp farmer as well as an expert on the technology to give you, I think, a little more background and context for this whole issue.

MR. CHAMBERLIN: Yeah, I'm happy to give you some background on the viral diseases. First of all, there are about -- over 20 shrimp viral diseases that have been described. The most serious one is white spot syndrome virus that we've heard about today. That hit China in about 1993 and swept through all of Asia and eventually into Latin America.

And in the beginning of that epidemic, there were really no solutions. All sorts of things were tried and promoted. Eventually we learned, and now we know, that the viruses can be controlled by exclusion, by use of disease-free parent stock and by screening out the carriers of the disease from the water used to fill the ponds.

But in those early stages, one of the misconceptions was that certain medicines might be able to help in the viral diseases. Well, certainly, antibiotics do not help at all with viral diseases. Some of the small farmers in Asia were sold a variety of concoctions, often those mixtures that were sold in the cottage industries that developed there contained antibiotics. But the farmer would not even realize it. These were additives to improve the health of the shrimp.

In about 2001, Green Peace sampled shrimp entering Europe, and found evidence of chloramphenicol, and basically it was a surprise to the entire shrimp farming industry.

And what happened afterwards was a major educational campaign to explain to farmers what the repercussions are of using banned antibiotics. Governments began regulatory actions to prevent the use of those antibiotics. Processors began checking all the shrimp they processed to make sure the antibiotics weren't present. Buyers rechecked it. And essentially today the antibiotics are -- the antibiotic problem is going away. Very little use of chloramphenicol is even detected any more. And it certainly hasn't impacted production, and it never did. It never did influence the viral diseases, which were the real problem.

MR. BENEDETTO: So are sales back to the EU from there?

MR. CHAMBERLIN: Yes, and the EU has also reinstated China and Thailand, and Asian producers are selling more to the EU.

MR. PIERCE: May I add to that, please?

MR. BENEDETTO: Yes.

MR. PIERCE: Ken Pierce. Just -- and we will put it in the record for Thailand, the size of these different markets so that you get a very good idea of just how exaggerated this claim is. With respect to Thailand, the United States is by far and large the dominant export market. Next is Japan. And Japan dwarfs the EU, and did, long before this scare. Singapore is even larger than the EU. And what you're going to see is that this is a way overblown claim about diversion. It doesn't impact a huge volume of exports, and in proportion to those other countries it's exaggerated. And you're asking about the date of the loss of GSP? That was 1999, and a far greater impact on shipments to the EU preceded this antibiotic scare.

And just following up on a question you had asked earlier, Thailand is the only country among the six that has lost GSP, and we will give you those other tariff rates for all the different countries, so that you can see the tariffs to those countries remain low to the EU.

MR. BENEDETTO: That would be helpful. Anyone else?

MR. CONNELLY: Warren Connelly. I want to add just one thing on antibiotics. The policy of the EU and the United States and Japan is identical. Zero tolerance for chloramphenicol and other antibiotic use. What the petitioners talked about this morning was the capability of various equipment in use in various countries to test for chloramphenicol. But none of the companies represented here, and indeed, no one in the domestic industry supports purchasing shrimp that has even an undetectable trace of chloramphenicol. It is a zero tolerance policy that is the official policy of the National Fisheries Institute which is the trade association that represents everyone in this industry.

And, of course, some of the petitioners are domestic processors. They have the same policy. I mean, we are all in this together. This is something that is simply one on which there's no disagreement.

MR. CYRIAC: A small point on this. My name is Jose Cyriac. It was suggested this morning that because of the testing by the European Union for antibiotics, there has been a shift in this low quality product from -- produced by Asian countries, to the USA. Nothing could be further from the truth, and it's just an exaggeration, or, as he said, it is a complete over-generalization.

India, for example, had never had any problem with the European Union on this. We were not banned. Brazil was not banned. Ecuador was not banned. What happened to Thailand and Vietnam? Was it ever tested? A little more than usual? So it's not correct to say there was wide-spread testing as a result of this there was a banning of those products from these countries, as a result of which there was a shift. It is not correct. It is an over-generalization.

MR. NICELY: Matt Nicely. And just to reiterate, on behalf of Vietnam, Vietnam has, in fact, been able to increase its sales, just recently, to Europe. So it's not causing a problem for the EU.

MR. BENEDETTO: So when you say an increase, do you mean increase over last year only, or previous to that as well?

MR. NICELY: Well, between 2002 and 2003 it's increased.

MR. BENEDETTO: Okay, but the ban hit in

2002, right? Or the increased testing hit in 2002?

MR. NICELY: No, there's no ban. There's no ban, though.

MR. BENEDETTO: The increased testing then, in 2002?

MR. NICELY: Right, and it's had no impact on their ability to sell to the EU. That's the point.

MR. BENEDETTO: Is there anyone else who wanted to comment on that?

Let's see. For the producers here, how easy is it -- if it's even possible -- to switch production between shrimp and other aquaculture products? Is that something that's possible, or common, or done at all?

MR. CHAMBERLIN: That's quite difficult. You make a major commitment to -- if it's an integrated operation, you know, to a hatchery, a breeding program, those things can be 20-year commitments toward breeding. If you're just a pond operator, all you have is a few ponds, then you can switch between species of shrimp if they are available in the market. But generally there are only one or two species available in a given country to choose from.

And switching to a completely different

product, a fish or an oyster, is a whole new proposition, a whole new training exercise. It's quite difficult to do; it's more or less a last resort.

MR. BENEDETTO: There was some testimony that this had happened in Vietnam, I believe?

MR. NICELY: Yes, there is some switching in Vietnam. We can talk about that in our post-conference brief.

MR. BENEDETTO: Okay.

MR. McCLAIN: Excuse me, there was a question from this morning where it was asked about the switching of foreign producers from frozen to canned, that that could be done. I just want to say that canned producers don't have that kind of equipment in their cannery. We can't move back and forth, so it's not interchangeable.

MR. BENEDETTO: Is there anything else on production switching?

MR. CONNELLY: Related to switching, intermingling, there was testimony this morning that there was intermingling of imported and domestic shrimp. That is not the case in our experience. We talked about this. It seems totally wrong to us to claim this.

MR. BENEDETTO: I think that's about it. I think Mr. Bernstein covered my questions pretty well. So -- just one more quick question to sort of follow up on something Mr. Bernstein was talking about.

The domestics said this morning that they fish year round and that they do maintain inventories, but there's been some testimony this afternoon that while -- in other words, do you disagree with that, or do you agree with that, but that you can't get certain species at certain times of the year, but you could get shrimp from them at all times of the year?

MR. MENTZER: I think, if our customer says we want to promote a certain size shrimp, our availability to find that specific certain size shrimp in the US domestic market is nearly impossible. Because it is seasonal, and because from season to season the catch is different. So our customers demand a specific sized product and we need to be able to go into the global market to find that product for them. And it's just not a large enough resource, domestically, to be able to do that at the time that the customer wants it.

MR. BENEDETTO: So you can't get specific shrimp at certain times of the year?

MR. MENTZER: We can't get specific size

shrimp at certain times of the year. And generally its not a question of the petitioners maybe not wanting to supply the shrimp, but the fact that it's not found in the environment. It may not have been available this fishing season.

MR. BENEDETTO: Anyone else want to add anything to that? Okay, I think that's all my questions.

MR. CARPENTER: Mr. Mehta?

MR. MEHTA: I have no questions at this time.

MR. CARPENTER: Mr. Forstall?

MR. FORSTALL: No questions.

MR. CARPENTER: Mr. McClure?

MR. McCLURE: Just one. The hour is late, and as you, at this table, well know, we have just a few questionnaires to get up there and look at. Thanks, I think.

Mr. Pierce said that you would be providing information with regard to the various markets, Thailand exports, too, I would ask all of you to do that on a country by country basis. And if you collectively want to take a crack at the side by side I asked petitioners to provide, I would appreciate that.

Other than that, thank you for your testimony, all of you. It's been very informative.

MR. CARPENTER: Just a couple more follow ups. Mr. Catanzero, I believe you refer in your testimony to aquaculture size shrimp. Could you tell us more specifically what size counts those would be, that you typically purchase for the grocery stores?

MR. CATANZARO: Well, typically, there's a couple of things there. We use a head on shrimp and a tail, so there's two types of aquaculture shrimp that we use. And the head on shrimp would run a little bit larger, 16, 20, 21, 25 count per pound.

MR. CARPENTER: Uh-huh.

MR. CATANZARO: And a tail would typically run between 31 to35 or 36 to 40, typically put in a 30 to 40 count range, or a 40 to 50 count range. Very little differentiation in the size variations. Harvesting -- and George would know better than I -- there's an economic equation that occurs when you get to a certain size. And that's when you're better suited to sell the product.

MR. CARPENTER: What is the smallest product that you sell in your stores?

MR. CATANZARO: Overall?

MR. CARPENTER: On a volume basis.

MR. CATANZARO: On aquaculture or any shrimp?

MR. CARPENTER: Any shrimp.

MR. CATANZARO: We do sell a salad size. We do not sell the size being produced out of India, but typically 91, 110 count, 91, 120 count, in that range there. We do sell some smaller ones, but the largest volume would be in those sizes on the smaller ones. But ultimately the sizes in the 30 to 40 count range are a much bigger item for us.

MR. CARPENTER: And those smaller ones, are those all wild caught?

MR. CATANZARO: No, not in ours, because the smaller ones are actually further processed, the value added product, and that is cooked. We don't have, I don't think, any of our domestic suppliers capable of producing that product.

MR. CARPENTER: The rest of the companies represented here, could you tell us what sizes you typically sell in your restaurants?

MR. HERZIG: My restaurant uses a variety of sizes. As I testified -- or in my testimony, we use over 25 different products, and frankly, we use everything from the size that Mr. Catanzaro just mentioned all the way up through 16, 20's.

MR. CARPENTER: Uh-huh. What about at the lower, or the smaller end of the range?

MR. HERZIG: The smallest shrimp that we use are shrimp that are processed into popcorn shrimp. And those are typically a 100 to 200 count. That's the smallest raw material that we would use for our products.

MR. CARPENTER: Okay, so the popcorn shrimp are 100 to 200?

MR. HERZIG: They're made from a 100 to 200 count, the raw material.

MR. CARPENTER: And where do you source those?

MR. HERZIG: They are sourced both domestically, at times, and overseas.

MR. CARPENTER: Okay.

Okay, Mr. Brock?

MR. BROCK: Starting from the larger sizes down, 4 to 6, 6 to 8, under 12, 16-20, 21-25, 26-30, 36-40, 41-50 and 110 to 130.

MR. CARPENTER: Okay.

MR. BROCK: You asked.

(Laughter.)

MR. CARPENTER: Yeah, I did.

What I was getting at was, again, a follow up to Mr. Bernstein's question about looking for a bright line distinction between the cocktail size shrimp and a larger shrimp. And when you said the popcorn size shrimp is between 100 and 200 roughly, so there's not -- there's not a clear gap, I guess. There is a continuum in the sense that -- but is there a gap where there's not significant production somewhere along the continuum?

Does anyone want to respond to that, if you're following what I'm getting at here? For like product purposes? This might be more of a question for --

MR. CONNELLY: Warren Connelly. I don't think for like product purposes, with the exception of the 250 and up, taking exception to including all the counts in the same like product.

MR. CARPENTER: Well, let me ask another question. Could the popcorn size shrimp be used in a cocktail shrimp application?

MR. CONNELLY: We'd better have an expert answer that, because my answer would be no. But I'm no expert.

MR. HERZIG: I suppose you could offer whatever you'd like. It's not typically done.

MR. CARPENTER: It's not typically done.

Okay.

MR. BROCK: Robert, if you would, I would second that. That is surely a presentation that's just not going to be accepted.

MR. CARPENTER: Okay, thank you.

On a different point, Mr. Pierce indicated about 95 percent of the Thai product is farm raised? I was wondering if the other representatives of the different countries could give us an estimate for each of the countries for what percentage is farm raised versus wild caught. If you don't have that information available today, if you could provide that in your brief, I'd appreciate it.

MR. NICELY: Matt Nicely. Are you talking about production or shipped to the United States?

MR. CARPENTER: Maybe it would be good to do it both ways.

MR. CONNELLY: Warren Connelly. I think that's a very important piece of information to have, because the global percentage of farmed versus wild caught is very different from the percentage of imports. The global percentage, I think George said earlier, is 35 percent farm, 65 percent wild caught. I think what the questionnaires are showing is it is much more like 90 percent farmed coming into the

United States.

MR. CARPENTER: Okay, and is that just from the subject countries, or does that also include non-subject?

MR. CONNELLY: I'd better not say any more than that.

MR. CARPENTER: I appreciate that.

That's all the questions I have. Mr. McClure?

MR. McCLURE: Just one follow up to the question Mr. Carpenter asked. Mr. Catanzaro, in talking about the count, you mentioned, I think, the 91 to 120, and you refer to it as a salad shrimp, and yet counsel for the Indians is talking about salad shrimp 250 and above. In the business -- anybody can comment on this -- I mean, is the term salad shrimp common, and if so, how do you folks view it?

MR. CATANZARO: I believe that's more regionalized than anything, depending upon usage in the typical areas. We use that size for a Mexican campachana, it's called, which is a Mexican-style shrimp cocktail, where you don't use 250-300 count. I think typically, I think most of the salad manufacturers are using that product for making shrimp salad for the delis. At least in our area. We don't purchase that product, it would come through the salad supplier. But this would be something that someone would take home and create their own little cocktail. And I think cosmetically it offers a little bit different experience.

MR. McCLURE: All right, thank you. That's all that I have.

MR. CARPENTER: Thank you again for your excellent presentations and for your detailed responses to our questions. I think the fact that this went on so long is indicative of the fact that we have a lot of very knowledgeable people here, and also an industry that's a new one for us to deal with, and one that we're very interested in. I'm sure the Commission will be interested in it, too.

At this point we'll take a break until about 3:45, and then I'll ask -- we'll have the closing statements from each side. Ten minutes for each side, beginning with the petitioners. Thank you.

(Whereupon, at 3:36 p.m., a brief recess was taken.)

MR. CARPENTER: We're back on the record. Could we resume the conference, please?

Mr. Dempsey and Mr. Brock, please come forward.

MR. DEMPSEY: Thank you. For the record, I'm Kevin Dempsey, Dewey Ballantine, and I'll be speaking for petitioners.

There's a lot to go over, but I guess I'd like to bring it back to the -- what we think is the central issue of this case, what we talked about this morning. And that's the question of price. What we've seen in the US market since 2000 is a dramatic decline in prices. Both a decline in import prices, which on average, looking at AUVs, it dropped over 30 percent from 2000 through the first three quarters of 2003, and a corresponding decline in domestic prices, both at the wholesale processed level and at the ex vessel level from -- gained by shrimp harvesters.

And I think it was Mr. Bernstein who asked the question, you know, how do you explain that. And frankly, especially with demand in the United States for shrimp growing dramatically and with respondents' claims that there's really no price competition between foreign imports and domestic products, that domestic product doesn't meet the quality needs, and therefore there's just not competition.

And at first they couldn't explain it. And then one of the respondents did say well, perhaps you should look at Urner Barry data. And they said we think if you look at Urner Barry data, that you'd see that domestic prices are below import prices, and there's just no correlation. They said they'd provide that later.

Well, I'd suggest to you all that in fact you don't have to wait until later. It's in the petition. It's Exhibit 2-18. It compares, from Urner Barry, domestic prices for whites, 31 to 35 count size with import sizes for whites, from various countries 31 to 35. And what it shows over the period of investigation is that imports generally undersold domestic prices throughout the period. Import prices declined, and they pulled domestic prices down.

And that's the heart of the causation story, right there. The imports coming in at increasing and very large volumes at ever lower prices have been pulling domestic prices down and causing dramatic injury to the domestic industry, both to processors and to harvesters of wild -- of shrimp in the United States.

Respondents also make a number of claims on quality. And I'd like to just talk about a few of them. First of all, I'd say that I found it rather confusing, their arguments, because I heard one respondent suggest that the taste of farm raised imported shrimp was better than the wild caught domestic shrimp. Then another said just the opposite, that in fact the domestic wild caught shrimp had a better taste, and that there would be a consumer preference for that, that it would be a premium product.

Well, which is it? How come they can't keep their stories straight? Could it be, as one of the respondents admitted later -- I think it was the gentleman from Darden -- that, in fact, when they put it on their menu they don't distinguish between the imports and the domestic, because when it comes down to it, while there are variations across the wide variety of species and count sizes, that it really comes down to ultimately, a question of price. At a particular count size, where's the best deal, as we said earlier. That's what was happening in this market, and that's what's causing prices to decline for domestic shrimpers and injuring the domestic industry.

You also heard from the respondents that there was a problem with seasonality. That because shrimp that is harvested out of the ocean is caught principally in certain seasons of the year, they couldn't count on a steady supply of shrimp of certain sizes. It's as if they've forgotten about the whole other part of the industry, the part of the processors, whose main activity is processing and then freezing the shrimp to sell it on a year-round basis.

In fact, that was a big part of the processors' business, for many years, was holding that shrimp from the season when it was principally harvested to sell it year round, when they could get a price premium for that shrimp, until imports started coming in, in such huge quantities and at such low prices that the seasonal premium was wiped out, and no opportunity to make a profit at any point during the year.

In fact, all these quality claims, and all these claims about inability to get product during certain seasons of the year really comes down to just cover for the question of price, that the respondents want to be able to buy the dumped imports and the ever-lower prices and it's dragging down the domestic prices and causing injury to the domestic injury.

They also raised the question about sodium tripolyphosphate being put on the shrimp as if this was some great quality concern, as if this was being put on by domestic producers. If you listen closely to their testimony, in fact, they said that they put the same substance on the shrimp in their processing when they're turning it into breaded products. It's just a question of where it's happening, but it's not a question of whether there's a quality difference there.

Let me just, before turning to like product, just say another claim that was made was that we somehow want to reduce the consumption and the demand for shrimp in the United States. That is not what this case is about. We're not -- as we said this morning repeatedly, we're not looking to shut down all imports. We're looking to get -- to have a fair price.

We recognize the domestic industry can only supply a certain portion of the total demand in the United States. But it's a question at what price. If the imports are coming in to serve that extra demand, and if it's not a question of price competition to drive the domestic -- driving domestic prices down, there shouldn't be a problem. Prices should be higher, not lower, as demand rises and there is limited supply in the United States. Something else is clearly going on here.

Finally, let me turn to the question of like product. And I don't have a lot of time, but let me just briefly suggest that the various arguments presented today by respondents on the five different like product categories don't stand up to very much scrutiny at all.

First, they want to distinguish between the raw headless and then all the value added. So in other words, taking the head off of a shrimp is not a -- makes it one product. But if you then take the shell off, it suddenly becomes a completely different product. They're trying to avoid the recognition that there is a continuum of products, at various stages of processing. You have the head on shrimp, you take the head off, you take the tail off, you cook it. But they're all frozen or canned, and they all compete for the same uses and for the same purposes.

Instead, they want to try to suggest that there's a difference between when that shell is on and when that shell is off. But then there's no difference between that peeled shrimp and a breaded product that is 50 percent non-shrimp material. I suggest that that doesn't stand up to any scrutiny.

Very briefly, on canned versus frozen, the suggestion is that because they're on different aisles in the grocery store they're fundamentally different, even though, as the one gentleman from Chicken of the

Sea admitted, there probably is some overlap in uses between frozen and canned shrimp at certain sizes.

Salad shrimp, shrimp at greater than 250 count suddenly certain size shrimp is just too small; it has to be different. But all the other wide spectrum of count sizes, from under 15 up through 90 and more, 100, 150, that full range, that spectrum can all be a single like product. But suddenly, at one end, just because it's a little -- it's smaller yet, it's a different like product. Again, the continuum is there. There is no bright dividing line between the products.

I would note also that when you get to these smaller sizes, again, you have canned shrimp in the smaller sizes and you have frozen shrimp, and so you have another overlap there.

Freshwater versus warm water, we can go further into this in our post-conference brief, but I'd just simply suggest that the distinction between freshwater and warm water is not nearly so simple as respondents from India would like you to believe. You have black tigers and whites that are raised in freshwater ponds. You have macrobrachium that, in fact, have to move back to brackish water if they are to grow to a full size. So there's much more overlap here, and really freshwater shrimp should be really seen as a subset of warm water shrimp.

In sum, the arguments presented by the respondents simply do not withstand scrutiny, and they cannot hide the basic fact that when it comes down to it, frozen and canned warm water shrimp from the subject countries, coming in in very large volumes, increasing year by year, at ever lower prices, have been destroying the market for wild caught shrimp in this country, driving down prices, reducing revenues, causing the shutdown of plants and the tying up of boats, causing clear, present, material injury and threatening additional material injury to the domestic industry. Thank you.

MR. CARPENTER: Thank you, Mr. Dempsey.

Mr. Connelly?

MR. CONNELLY: Thank you. I have just some very brief remarks. First of all, the issue of the alleged inconsistency of testimony between some of our witnesses saying they prefer wild, some prefer farmed, I think Mr. Dempsey is confusing a difference in taste with a difference in quality. Quality is not a function of taste. Quality is a function of preference. And preference is a function of the standards to which processors pack and handle their material. And there's a very big difference there, and we'll go into this more in our brief.

Secondly, very briefly on the like product issue, we've drawn this distinction between primary processing and value added processing. Just for one example, peeling costs four times as much as deheading. And that's just the very first step you might take after this primary process of peeling.

Mr. Dempsey and the petitioners this morning said they're not looking to shut down imports. I would submit to you that's not true. I would submit to you that if you assume -- if you were to accept their allegation of a 200 percent margin on just about every country, that they would shut down imports. And that is the real danger in this case. He says it's a question of price. Well, what about the 90 percent of customers in the United States who can't buy domestic shrimp at any price because there is no more domestic shrimp? What are we going to do about them? It's a question of price for them, too.

I want to read some excerpts, some very short excerpts from a report, an independent report about the shrimp industry. First, the shrimp resource available to domestic processors is fixed in the long run. Second, the shrimp resources of the Gulf and

South Atlantic region have been fished to capacity for the last several years. Third, the primary sources of imported shrimp are Latin America and Asian countries which enjoy, in many cases, ideal conditions for aquaculture. Fourth, these foreign suppliers can be expected to significantly increase their imports and share of the US shrimp market in the next few years. They do not face the resource constraints placed upon the US industry, and, given a reliable supply of seed shrimp, will likely be able to supply a greater share of the US shrimp market in the future. Fifth, the domestic shrimp industry's ability to offer a wide range of product forms is largely offset by its dependence upon a seasonal, domestic supply of raw materials. Sixth, control over the product at all stages of production is the key to generally superior quality of aquacultured shrimp, which accounts for an increasing share of US imports of shrimp products. US producers rely on the ocean harvesting of shrimp and have less control over the handling of the product. This makes quality control more difficult than for foreign aquaculture operations. Seventh, quality control is not consistent throughout the domestic industry. In the absence of government enforced regulations to maintain product quality, shrimp producers and processors are left to themselves to exert the degree of care in handling, processing, storage and distribution which they see fit, with the predictable result that product quality varies. There is limited incentive to maintain high levels of quality. And finally, this report examined profitability of processors, and found profitability of less than one percent.

Now, who did this report? This report was done by the International Trade Commission in 1984. I have read excerpts from your report in 1984 examining the domestic shrimp industry.

Now, what have they done since 1984, and 1985, I think, when this report was issued? What have they done in the last 18 years to indicate that conditions are any different, or that they responded to what you identified as competitive advantages that aquacultured shrimp had. And the answer is, business as usual. With the result that you foresaw coming true. And that, I submit to you, is a compelling, if not mandating reason, for a negative determination right now. Thank you.

MR. CARPENTER: Do we have some additional remarks? Ms. Levinson?

MS. LEVINSON: Liz Levinson, on behalf of

India. I wanted to just respond to Mr. Dempsey's argument that salad shrimp is just a smaller size of the same continuum of shrimp, and remind him that he himself excluded cold water shrimp from the petition on the basis that it is a much smaller size and has different uses than other -- than warm water shrimp. And just repeat our remarks that the salad shrimp that we're talking about is in the size of the cold water shrimp and competes directly with cold water shrimp and not with warm water shrimp. Thank you very much.

MR. CARPENTER: Thank you, Ms. Levinson.

Just a few concluding remarks. First, there will be an APO release available today, so -- my understanding is it's available right now, so those of you who are APO parties, I would suggest that you might want to stop by the Secretary's office on your way out and pick that up.

The deadline for the submission of corrections to the transcript is Monday, January 26th. The deadline for briefs in the investigation is Tuesday, January 27th at 9:30 a.m. Let me just repeat that. It's Tuesday, January 27th at 9:30 a.m. If briefs contain business proprietary information, a non-proprietary version is due on January 28th, also at 9:30 a.m. The Commission has tentatively scheduled its vote on the investigation for Tuesday, February 17th, at 11 a.m. It will report its determinations to the Secretary of Commerce later that day. Commissioner's will be transmitted to Commerce a week later, on February 24th.

Before we adjourn, I'd also like the lead attorneys for the different parties to stop up here, and we will try to resolve the issues that have come up regarding the briefs and page limitations.

Thank you all for coming. This conference is adjourned.

(Whereupon, at 4:09 p.m., the preliminary conference in the above-captioned matter was adjourned.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Certain Frozen Shrimp

INVESTIGATION NO.: 731-TA-1063-1068

HEARING DATE: January 21, 2004

LOCATION: Washington, D.C.

NATURE OF HEARING: Preliminary Conference

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: January 21, 2004

SIGNED: LaShonne Robinson
Signature of the Contractor or the Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

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I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

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